

of a board member normally chosen by retiree election shall be filled by appointment made by the other member normally chosen by retiree election.

SECTION 2. Section 5(d)(4), Chapter 358, Acts of the 48th Legislature, 1943 (Article 6243g, Vernon's Texas Civil Statutes), is amended to read as follows:

(4) The Pension Board shall ~~adopt~~ ~~[prepare]~~ a detailed annual budget showing its proposed administrative expenditures under Subdivision (2) of this subsection for the next fiscal year ~~[and submit it to the governing body of the city for approval]~~.

SECTION 3. To implement the staggering of board member terms provided by this Act, not later than October 1, 1993, persons serving on the effective date of this Act as employee or retiree members of the pension board established by Section 5, Chapter 358, Acts of the 48th Legislature, 1943 (Article 6243g, Vernon's Texas Civil Statutes), shall draw lots to determine the length of their terms. Two of the employee board members and one retiree board member shall serve terms expiring after the regularly scheduled board elections in 1996, and two employee board members and one retiree board member shall serve terms expiring after the regularly scheduled board elections in 1998.

SECTION 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on April 7, 1993, by a non-record vote; the House concurred in Senate amendments to H.B. No. 1278 on May 18, 1993, by a non-record vote; passed by the Senate, with amendments, on May 12, 1993: Yeas 31, Nays 0.
Approved May 29, 1993.

Effective Aug. 30, 1993, 90 days after date of adjournment.

CHAPTER 347

S.B. No. 7

AN ACT

relating to public school education and finance; providing civil penalties.

Be it enacted by the Legislature of the State of Texas:

ARTICLE 1

SECTION 1.01. Title 2, Education Code, is amended by adding Chapter 36 to read as follows:

CHAPTER 36. EQUALIZED WEALTH LEVEL

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 36.001. **DEFINITIONS.** *In this chapter:*

- (1) "Equalized wealth level" means the wealth per student provided by Section 36.002.
- (2) "Wealth per student" means the taxable value of property, as determined under Section 11.86, divided by the number of students in weighted average daily attendance.
- (3) "Weighted average daily attendance" has the meaning assigned by Section 16.302, except that weighted average daily attendance is computed using the estimate of average daily attendance under Section 16.2541, and the estimate under Section 16.2541 is modified by including a student residing in a school district but attending school in another district in the estimate for the district of the student's residence and not of the district in which the student attends school.

Sec. 36.002. EQUALIZED WEALTH LEVEL. (a) Except as provided by Subsections (b) and (c), a school district may not have a wealth per student that exceeds \$280,000.

(b) For the 1993–1994 school year, in accordance with a determination of the commissioner of education, the wealth per student that a school district may have after exercising an option under Section 36.003(2), (3), or (4) may not be less than the amount needed to maintain the amount of state and local revenue per weighted student for maintenance and operation of the district for the 1992–1993 school year if the district imposes an effective tax rate for maintenance and operation of the district equal to the greater of the district's current tax rate or \$1.975 on the \$100 valuation of taxable property.

(c) For the 1994–1995 and 1995–1996 school years, in accordance with a determination of the commissioner of education, the wealth per student that a school district may have after exercising an option under Section 36.003(2), (3), or (4) may not be less than the amount needed to maintain the amount of state and local revenue per weighted student for maintenance and operation of the district for the 1992–1993 school year if the district imposes an effective tax rate for maintenance and operation of the district equal to the greater of the district's current tax rate or \$1.50 on the \$100 valuation of taxable property.

(d) For purposes of Subsections (b) and (c), a school district's effective tax rate is determined by dividing the total amount of taxes collected by the district for the applicable school year by the quotient of the district's taxable value of property, as determined under Section 11.86, divided by 100.

Sec. 36.003. OPTIONS TO ACHIEVE EQUALIZED WEALTH LEVEL. A district with a wealth per student that exceeds the equalized wealth level may take any combination of the following actions to achieve the equalized wealth level:

- (1) consolidation with another district as provided by Subchapter B;
 - (2) detachment of territory as provided by Subchapter C;
 - (3) purchase of average daily attendance credit as provided by Subchapter D;
 - (4) contracting for the education of nonresident students as provided by Subchapter E;
- or
- (5) tax base consolidation with another district as provided by Subchapter F.

Sec. 36.004. ANNUAL REVIEW OF PROPERTY WEALTH. (a) Not later than July 15 of each year, the commissioner of education shall review the wealth per student of school districts in the state and shall notify:

- (1) each district with wealth per student exceeding the equalized wealth level;
- (2) each district to which the commissioner proposes to annex property detached from a district notified under Subdivision (1), if necessary, under Subchapter G; and
- (3) each district to which the commissioner proposes to consolidate a district notified under Subdivision (1), if necessary, under Subchapter H.

(b) If, before the dates provided by this subsection, a district notified under Subsection (a)(1) has not successfully exercised one or more options under Section 36.003 that reduce the district's wealth per student to a level equal to or less than the equalized wealth level, the commissioner shall order the detachment of property from that district as provided by Subchapter G. If that detachment will not reduce the district's wealth per student to a level equal to or less than the equalized wealth level, the commissioner may not detach property under Subchapter G but shall order the consolidation of the district with one or more other districts as provided by Subchapter H. An agreement under Section 36.003(1) or (2) must be executed not later than September 1 immediately following the notice under Subsection (a). An election for an option under Section 36.003(3), (4), or (5) must be ordered before September 1 immediately following the notice under Subsection (a).

(c) A district notified under Subsection (a) may not adopt a tax rate for the tax year in which the district receives the notice until the commissioner of education certifies that the district has achieved the equalized wealth level.

(d) A detachment and annexation or consolidation under this chapter:

(1) is effective for foundation school program funding purposes for the school year that begins in the calendar year in which the detachment and annexation or consolidation is agreed to or ordered; and

(2) applies to the ad valorem taxation of property beginning with the tax year in which the agreement or order is effective.

Sec. 36.005. **COMPTROLLER AND APPRAISAL DISTRICT COOPERATION.** The chief appraiser of each appraisal district and the comptroller shall cooperate with the commissioner and school districts in implementing this chapter.

Sec. 36.006. **RULES.** (a) The commissioner of education may adopt rules necessary for the implementation of this chapter. The rules may provide for the commissioner to make necessary adjustments to the provisions of Chapter 16, including providing for the commissioner, with the approval of the foundation school fund budget committee, to make an adjustment in the funding element established by Section 16.802, at the earliest date practicable, to the amount the commissioner believes, taking into consideration options exercised by school districts under this chapter and estimates of student enrollments, will match appropriation levels.

(b) As necessary for the effective and efficient administration of this chapter, the commissioner of education may modify effective dates and time periods for actions described by this chapter.

Sec. 36.007. **COMMISSIONER TO APPROVE SUBSEQUENT BOUNDARY CHANGES.** A school district that is involved in an action under this chapter that results in boundary changes to the district or in the consolidation of tax bases is subject to consolidation, detachment, or annexation under Chapter 19 only if the commissioner of education certifies that the change under Chapter 19 will not result in a district with a wealth per student that exceeds the equo'ized wealth level.

Sec. 36.0075. **HOMESTEAD EXEMPTIONS.** (a) The governing board of a school district that results from consolidation under this chapter, including a consolidated taxing district under Subchapter F, for the tax year in which the consolidation occurs may determine whether to adopt a homestead exemption provided by Section 11.13, Tax Code, and may set the amount of the exemption, if adopted, at any time before the school district adopts a tax rate for that tax year. This section applies only to an exemption that the governing board of a school district is authorized to adopt or change in amount under Section 11.13, Tax Code.

(b) This section prevails over any inconsistent provision of Section 11.13, Tax Code, or other law.

Sec. 36.008. **TAX ABATEMENTS.** (a) A tax abatement agreement executed by a school district that is involved in consolidation or in detachment and annexation of territory under this chapter is not affected and applies to the taxation of the property covered by the agreement as if executed by the district within which the property is included.

(b) The commissioner shall determine the wealth per student of a school district under this chapter as if any tax abatement agreement executed by a school district on or after May 31, 1993, had not been executed.

Sec. 36.0085. **TAX INCREMENT OBLIGATIONS.** The payment of tax increments under Chapter 311, Tax Code, is not affected by the consolidation of territory or tax bases or by annexation under this chapter. In each tax year a school district paying a tax increment from taxes on property over which the district has assumed taxing power is entitled to retain the same percentage of the tax increment from that property that the district in which the property was located before the consolidation or annexation could have retained for the respective tax year.

Sec. 36.009. **CONTINGENCY.** (a) If any of the options described by Section 36.003 as applied to a school district are held invalid by a final decision of a court of competent jurisdiction, a school district is entitled to exercise any of the remaining valid options in accordance with a schedule approved by the commissioner of education.

(b) If a final order of a court of competent jurisdiction should hold each of the options provided by Section 36.003 invalid, the commissioner shall act under Subchapter G or H to

achieve the equalized wealth level only after notice and hearing is afforded to each school district affected by the order. The commissioner shall adopt a plan that least disrupts the affected school districts. If because the exigency to adopt a plan prevents the commissioner from giving a reasonable time for notice and hearing, the commissioner shall timely give notice to and hold a hearing for the affected school districts, but in no event less than 30 days from time of notice to the date of hearing.

(c) If a final order of a court of competent jurisdiction should hold an option provided by Section 36.003 invalid and order a refund to a district of any amounts paid by a district choosing that option, the amount shall be refunded but held in reserve and not expended by the district until released by order of the commissioner of education. The commissioner shall order the release immediately on the commissioner's determination that, through one of the means provided by law, the district has achieved the equalized wealth level. The amount released shall be deducted from any state aid payable to the district according to a schedule adopted by the commissioner.

Sec. 36.010. **DATE OF ELECTIONS.** An election under this chapter for voter approval of an agreement entered by the board of trustees shall be held on a Tuesday or Saturday not more than 45 days after the date of the agreement. Section 41.001, Election Code, does not apply to the election.

Sec. 36.011. **PROCEDURE.** (a) Except as provided by Subchapter G, a decision of the commissioner under this chapter is appealable under Section 11.13(c).

(b) Any order of the commissioner issued under this chapter shall be given immediate effect and may not be stayed or enjoined pending any appeal.

(c) The Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes) does not apply to a decision of the commissioner under this chapter.

(d) On the request of the commissioner, the secretary of state shall publish any rules adopted under this chapter in the Texas Register and the Texas Administrative Code.

SUBCHAPTER B. CONSOLIDATION BY AGREEMENT

Sec. 36.031. **AGREEMENT.** The governing boards of any two or more school districts may consolidate the districts by agreement in accordance with this subchapter to establish a consolidated district with a wealth per student equal to or less than the equalized wealth level. The agreement is not effective unless the commissioner of education certifies that the consolidated district, as a result of actions taken under this chapter, will have a wealth per student equal to or less than the equalized wealth level.

Sec. 36.032. **GOVERNING LAW.** Except to the extent modified by the terms of the agreement, the consolidated district is governed by the applicable provisions of Subchapter C, Chapter 19, other than a provision requiring consolidating districts to be contiguous. The agreement may not be inconsistent with the requirements of this subchapter.

Sec. 36.033. **GOVERNANCE PLAN.** (a) The agreement among the consolidating districts may include a governance plan designed to preserve community-based and site-based decision making within the consolidated district, including the delegation of specific powers of the governing board of the district other than the power to levy taxes.

(b) The governance plan may provide for a transitional board of trustees during the first year after consolidation, but beginning with the next year the board of trustees must be elected from within the boundaries of the consolidated district from single-member districts drawn in accordance with the procedures provided by Section 23.024.

Sec. 36.034. **INCENTIVE AID.** (a) For the first and second school years after creation of a consolidated district under this subchapter, the commissioner of education shall adjust allotments to the consolidated district to the extent necessary to preserve the effects of an adjustment under Section 16.102, 16.103, or 16.104 to which either of the consolidating districts would have been entitled but for the consolidation.

(b) A district receiving incentive aid payments under this section is not entitled to incentive aid under Subchapter G, Chapter 23.

SUBCHAPTER C. DETACHMENT AND ANNEXATION BY AGREEMENT

Sec. 36.061. **AGREEMENT.** (a) By agreement of the governing boards of two school districts, territory may be detached from one of the districts and annexed to the other district if, after the action:

(1) the wealth per student of the district from which territory is detached is equal to or less than the equalized wealth level; and

(2) the wealth per student of the district to which territory is annexed is not greater than the greatest level for which funds are provided under Subchapter H, Chapter 16.

(b) The agreement is not effective unless the commissioner of education certifies that, after all actions taken under this chapter, the wealth per student of each district involved will be equal to or less than the applicable level permitted by Subsection (a).

Sec. 36.062. **GOVERNING LAW.** Except to the extent of any conflict with this chapter and except for any requirement that detached property must be annexed to a school district that is contiguous to the detached territory, the annexation and detachment is governed by Chapter 19.

Sec. 36.063. **ALLOCATION OF APPRAISED VALUE OF DIVIDED UNIT.** If portions of a parcel or other item of property are located in different school districts as a result of a detachment and annexation under this subchapter, the parcel or other item of property shall be appraised for taxation as a unit, and the agreement shall allocate the taxable value of the property between the districts.

Sec. 36.064. **ALLOCATION OF INDEBTEDNESS.** The annexation agreement may allocate to the receiving district any portion of the indebtedness of the district from which the territory is detached, and the receiving district assumes and is liable for the allocated indebtedness.

Sec. 36.065. **NOTICE.** As soon as practicable after the agreement is executed, the districts involved shall notify each affected property owner and the appraisal district in which the affected property is located.

SUBCHAPTER D. PURCHASE OF ATTENDANCE CREDIT

Sec. 36.091. **AGREEMENT.** A school district with a wealth per student that exceeds the equalized wealth level may execute an agreement with the commissioner of education to purchase attendance credits in an amount sufficient, in combination with any other actions taken under this chapter, to reduce the district's wealth per student to a level that is equal to or less than the equalized wealth level.

Sec. 36.092. **CREDIT.** (a) For each credit purchased, the weighted average daily attendance of the purchasing school district is increased by one student in weighted average daily attendance for purposes of determining whether the district exceeds the equalized wealth level.

(b) A credit is not used in determining a school district's scholastic population, average daily attendance, or weighted average daily attendance for purposes of Chapter 15 or 16.

Sec. 36.093. **COST.** The cost of each credit is an amount equal to the greater of:

(1) the amount of the district's total tax revenue per weighted student in average daily attendance for the school year for which the contract is executed; or

(2) the amount of the statewide district average of total tax revenue per weighted student in average daily attendance for the school year preceding the school year for which the contract is executed.

Sec. 36.094. **PAYMENT.** (a) A school district shall pay for credits purchased in accordance with a schedule adopted by the commissioner of education, with all payments being made not later than February 15 of the school year for which the agreement is in effect.

(b) Receipts shall be deposited in the state treasury and may be used only for foundation school program purposes.

Sec. 36.095. DURATION. An agreement under this section is valid for one school year and, subject to Section 36.096, may be renewed annually.

Sec. 36.096. VOTER APPROVAL. (a) After first executing an agreement under this section, the board of trustees shall order and conduct an election, in the manner provided by Sections 19.003(d)–(h), to obtain voter approval of the agreement.

(b) The ballot shall be printed to provide for voting for or against the proposition: "Authorizing the board of trustees of _____ School District to purchase attendance credits from the state with local tax revenues."

(c) The proposition is approved if the proposition receives a favorable vote of a majority of the votes cast. If the proposition is approved, the agreement executed by the board is ratified, and the board has continuing authority to execute agreements under this subchapter on behalf of the district without further voter approval.

SUBCHAPTER E. CONTRACT FOR EDUCATION OF NONRESIDENT STUDENTS

Sec. 36.121. AGREEMENT. The board of trustees of a district with a wealth per student that exceeds the equalized wealth level may execute an agreement to educate the students of another district in a number that, when the weighted average daily attendance of the students served is added to the weighted average daily attendance of the contracting district, is sufficient, in combination with any other actions taken under this chapter, to reduce the district's wealth per student to a level that is equal to or less than the equalized wealth level. The agreement is not effective unless the commissioner of education certifies that the transfer of weighted average daily attendance will not result in any of the contracting districts' wealth per student being greater than the equalized wealth level and that the agreement requires an expenditure per weighted student in average daily attendance that is at least equal to the amount per weighted student in average daily attendance required under Section 36.093, unless it is determined by the commissioner that a quality educational program can be delivered at a lesser amount.

Sec. 36.122. VOTER APPROVAL. (a) After first executing an agreement under this section, the board of trustees of the district that will be educating nonresident students shall order and conduct an election, in the manner provided by Sections 19.003(d)–(h), to obtain voter approval of the agreement.

(b) The ballot shall be printed to provide for voting for or against the proposition: "Authorizing the board of trustees of _____ School District to educate students of other school districts with local tax revenues."

(c) The proposition is approved if the proposition receives a favorable vote of a majority of the votes cast. If the proposition is approved, the agreement executed by the board is ratified, and the board has continuing authority to execute agreements under this subchapter on behalf of the district without further voter approval.

Sec. 36.123. WADA COUNT. For purposes of Chapter 16, students served under an agreement under this subchapter are counted only in the weighted average daily attendance of the district providing the services.

SUBCHAPTER F. TAX BASE CONSOLIDATION

Sec. 36.151. AGREEMENT. The board of trustees of two or more school districts may execute an agreement to conduct an election on the creation of a consolidated taxing district for the maintenance and operation of the component school districts. The agreement is subject to approval by the commissioner of education. The agreement is not effective unless the commissioner of education certifies that the consolidated taxing district will have a wealth per student equal to or less than the equalized wealth level after all actions taken under this chapter.

Sec. 36.152. DATE OF ELECTION. Any agreement under this subchapter must provide for the ordering of an election to be held on the same date in each district.

Sec. 36.153. PROPOSITION. (a) The ballot shall be printed to provide for voting for or against the proposition: "Creation of a consolidated taxing district composed of the territory

of _____ school districts, and authorizing the levy, assessment, and collection of annual ad valorem taxes for the maintenance of the public free schools within that taxing district at a rate not to exceed \$_____ on the \$100 valuation of taxable property."

(b) The rate to be included in the proposition shall be provided by the agreement among the districts but may not exceed the maximum rate provided by law for independent school districts.

Sec. 36.154. **APPROVAL.** The proposition is approved only if the proposition receives a favorable vote of the majority of the votes cast within each participating school district.

Sec. 36.155. **CONSOLIDATED TAXING DISTRICT.** A consolidated taxing district is a school district established for the limited purpose of exercising the taxing power authorized by Article VII, Section 3, of the Texas Constitution and distributing the revenue to its component school districts.

Sec. 36.156. **GOVERNANCE.** (a) The consolidated taxing district is governed by the boards of the component school districts acting jointly.

(b) Any action taken by the joint board must receive a favorable vote of a majority of each component district's board of trustees.

Sec. 36.157. **MAINTENANCE TAX.** (a) The joint board shall levy a maintenance tax for the benefit of the component school districts not later than September 1 of each year or as soon thereafter as practicable.

(b) Each component district shall bear a share of the costs of assessing and collecting taxes in proportion to the component district's share of weighted average daily attendance in the consolidated taxing district.

(c) A component district may not levy an ad valorem tax for the maintenance and operation of the schools.

(d) Notwithstanding Sections 20.04 and 20.09, the consolidated taxing district may levy, assess, and collect a maintenance tax for the benefit of the component districts at a rate that exceeds \$1.50 per \$100 valuation of taxable property to the extent necessary to pay contracted obligations on the lease purchase of permanent improvements to real property entered into on or before May 12, 1993. The proposition to impose taxes at the necessary rate must be submitted to the voters in the manner provided by Section 20.04.

Sec. 36.158. **REVENUE DISTRIBUTION.** The consolidated taxing district shall distribute maintenance tax revenue to the component districts on the basis of the number of weighted students in average daily attendance in the component districts.

Sec. 36.159. **TAXES OF COMPONENT DISTRICTS.** (a) The governing board of a component school district of a consolidated taxing district that has consolidated for maintenance and operation purposes only may issue bonds and levy, pledge, and collect ad valorem taxes within that component district sufficient to pay the principal of and interest on those bonds as provided by Chapter 20.

(b) A component district levying an ad valorem tax under this section or Section 36.160(b)(1) is entitled to the guaranteed yield provided by Subchapter H, Chapter 16, for that portion of its tax rate that, when added to the maintenance tax levied by the consolidated taxing unit, does not exceed the limitation provided by Section 16.903.

Sec. 36.160. **OPTIONAL TOTAL TAX BASE CONSOLIDATION.** (a) An agreement executed under Section 36.151 may provide for total tax base consolidation instead of consolidation for maintenance and operation purposes only.

(b) Under an agreement providing for total tax base consolidation:

(1) the component districts may not levy maintenance or bond taxes, except to the extent necessary to retire bonds and other obligations issued before the effective date of the consolidation;

(2) the joint board may issue bonds and levy, pledge, and collect ad valorem taxes sufficient to pay the principal of and interest on those bonds, and issue refunding bonds, as provided by Chapter 20 for independent school districts; and

(3) to the end of the ballot proposition required under Section 36.153(a) shall be added ", and further to create a consolidated tax base for the repayment of all bonded indebtedness issued by the joint board of the taxing district after the effective date of the consolidation and to authorize the joint board to levy, pledge, and collect ad valorem taxes at a rate sufficient to pay the principal of and interest on those bonds."

(c) Under an agreement providing for total tax base consolidation:

(1) the component districts may provide for the consolidated taxing district to assume all of the indebtedness of all component districts; and

(2) to the end of the ballot proposition required by Section 36.153(a) shall be added ", and further to create a consolidated tax base for the repayment of all bonded indebtedness issued by the joint board of the taxing district or previously issued by the component school districts and to authorize the joint board to levy, pledge, and collect ad valorem taxes at a rate sufficient to pay the principal of and interest on those bonds."

SUBCHAPTER G. DETACHMENT AND ANNEXATION BY COMMISSIONER OF EDUCATION

Sec. 36.201. **DEFINITION.** In this subchapter, "mineral property" means a real property mineral interest that has been severed from the surface estate by a mineral lease creating a determinable fee or by a conveyance that creates an interest taxable separately from the surface estate. A mineral property includes each royalty interest, working interest, or other undivided interest in the mineral property.

Sec. 36.202. **DETERMINATION OF TAXABLE VALUE.** (a) For purposes of this subchapter, the taxable value of an individual parcel or other item of property and the total taxable value of property in a school district resulting from the detachment of property from or annexation of property to that district is determined by applying the appraisal ratio for the appropriate category of property determined under Section 11.86 for the preceding tax year to the taxable value of the detached or annexed property determined under Title 1, Tax Code, for the preceding tax year.

(b) For purposes of this subchapter, the taxable value of all or a portion of a parcel or item of real property includes the taxable value of personal property having taxable situs at the same location as the real property.

Sec. 36.203. **PROPERTY SUBJECT TO DETACHMENT AND ANNEXATION.** (a) Only the following property may be detached and annexed under this subchapter:

(1) a mineral property;

(2) real property used in the operation of a public utility, including a pipeline, pipeline gathering system, or railroad or other rail system; and

(3) real property used primarily for industrial or other commercial purposes, other than property used primarily for agriculture or for residential purposes.

(b) If a final judgment of a court determines that a mineral interest may not be annexed and detached as provided by this subchapter without an attendant annexation and detachment of the surface estate or any other interest in the same land, the detachment and annexation of a mineral interest under this subchapter includes the surface estate and each other interest in the land covered by the mineral interest.

Sec. 36.204. **TAXATION OF PERSONAL PROPERTY.** Personal property having a taxable situs at the same location as real property detached and annexed under this subchapter is taxable by the school district to which the real property is annexed.

Sec. 36.205. **DETACHMENT OF PROPERTY.** (a) The commissioner shall detach property under this section from each school district from which the commissioner is required under Section 36.004 to detach property under this subchapter.

(b) The commissioner shall detach from each school district covered by Subsection (a) one or more whole parcels or items of property in descending order of the taxable value of each parcel or item, beginning with the parcel or item having the greatest taxable value, until the school district's wealth per student is equal to or less than the equalized wealth level, except as otherwise provided by Subsection (c).

(c) If the detachment of whole parcels or items of property, as provided by Subsection (a) would result in a district's wealth per student that is less than the equalized wealth level by more than \$10,000, the commissioner may not detach the last parcel or item of property and shall detach the next one or more parcels or items of property in descending order of taxable value that would result in the school district having a wealth per student that is equal to or less than the equalized wealth level by not more than \$10,000.

(d) Notwithstanding Subsections (a)–(c), the commissioner may detach only a portion of a parcel or item of property if:

(1) it is not possible to reduce the district's wealth per student to a level that is equal to or less than the equalized wealth level under this subchapter unless some or all of the parcel or item of property is detached and the detachment of the whole parcel or item would result in the district from which it is detached having a wealth per student that is less than the equalized wealth level by more than \$10,000; or

(2) the commissioner determines that a partial detachment of that parcel or item of property is preferable to the detachment of one or more other parcels or items having a lower taxable value in order to minimize the number of parcels or items of property to be detached consistent with the purposes of this chapter.

Sec. 36.206. ANNEXATION OF PROPERTY. (a) The commissioner shall annex property detached under Section 36.205 to school districts eligible for annexation in accordance with this section. A school district is eligible for annexation of property to it under this subchapter only if, before any detachments or annexations are made in a year, the district's wealth per student is less than the greatest level for which funds are provided under Subchapter H, Chapter 16.

(b) Property may be annexed to a school district without regard to whether the property is contiguous to other property in that district.

(c) The commissioner shall annex property detached from school districts beginning with the property detached from the school district with the greatest wealth per student before detachment, and continuing with the property detached from each other school district in descending order of the district's wealth per student before detachment.

(d) The commissioner shall annex the parcels or items of property detached from a school district to other school districts that are eligible for annexation of property in descending order of the taxable value of each parcel or item according to the following priorities:

(1) first, to the eligible school districts assigned to the same county as the school district from which the property is detached whose total adopted tax rate for the preceding tax year does not exceed by more than \$0.15 the total tax rate adopted for that year by the school district from which the property is detached;

(2) second, to the eligible school districts served by the same Regional Education Service Center as the district from which the property is detached whose total adopted tax rate for the preceding tax year does not exceed by more than \$0.10 the total tax rate adopted for that year by the school district from which the property is detached; and

(3) third, to other eligible school districts whose total adopted tax rate for the preceding tax year does not exceed by more than \$0.05 the total tax rate adopted for that year by the school district from which the property is detached.

(e) If the districts identified by Subsection (d) for a school district are insufficient to annex all the property detached from the school district, the commissioner shall increase, for purposes of this section, all the maximum difference in tax rates allowed under Subsection (d) in increments of \$0.01 until the districts are identified that are sufficient to annex all the property detached from the district.

(f) If only one school district is eligible to annex property detached from a school district within a priority group established by Subsections (d) and (e), the commissioner shall annex property to that district until it reaches a wealth per student equal as nearly as possible to the greatest level for which funds are provided under Subchapter H, Chapter 16, by annexing whole parcels or items of property. Any remaining detached property shall be annexed to eligible school districts in the next priority group as provided by this section.

(g) If more than one school district is eligible to annex property detached from a school district within a priority group established by Subsections (d) and (e), the commissioner shall first annex property to the district within the priority group to which could be annexed the most taxable value of property without increasing its wealth per student above the greatest level for which funds are provided under Subchapter H, Chapter 16, until that district reaches a wealth per student equal as nearly as possible to the greatest level for which funds are provided under Subchapter H, Chapter 16, by annexing whole parcels or items of property. Then any additional detached property shall be annexed in the same manner to other eligible school districts in the same priority group in descending order of capacity to receive taxable value of annexed property without increasing the district's wealth per student above the greatest level for which funds are provided under Subchapter H, Chapter 16. If every school district in a priority group reaches a wealth per student equal to the greatest level for which funds are provided under Subchapter H, Chapter 16, as nearly as possible, the remaining detached property shall be annexed to school districts in the next priority group in the manner provided by this section.

(h) For purposes of this section, a portion of a parcel or item of property detached in that subdivided form from a school district is treated as a whole parcel or item of property.

(i) The commissioner may order the annexation of a portion of a parcel or item of property, including a portion of property treated as a whole parcel or item under Subsection (h), if:

(1) the annexation of the whole parcel or item would result in the district eligible to receive it in the appropriate priority order provided by this section having a wealth per student greater than \$10,000 more than the greatest level for which funds are provided under Subchapter H, Chapter 16; or

(2) the commissioner determines that annexation of portions of the parcel or item would reduce disparities in district wealth per student more efficiently than would be possible if the parcel or item were annexed as a whole.

(j) The commissioner may modify the priorities established by this section as the commissioner considers reasonable to minimize or reduce the number of school districts to which the property detached from a school district is annexed, to minimize or reduce the geographic dispersal of property in a school district, to minimize or reduce disparities in school district wealth per student that would otherwise result, or to minimize or reduce any administrative burden or expense.

(k) For purposes of this section, a school district is assigned to a county if the school district is assigned to that county in the 1992-1993 Texas School Directory published by the Central Education Agency.

Sec. 36.207. LIMITATIONS ON DETACHMENT AND ANNEXATION. The commissioner may detach and annex property under this subchapter only if:

(1) the property is not exempt from ad valorem taxation under Section 11.20 or 11.21, Tax Code; and

(2) the property does not contain a building or structure owned by the United States, this state, or a political subdivision of this state that is exempt from ad valorem taxation under law.

Sec. 36.208. ORDERS AND NOTICE. (a) The commissioner shall order any detachments and annexations of property under this subchapter not later than November 8 of each year.

(b) As soon as practicable after issuing the order under Subsection (a), the commissioner shall notify each affected school district and the appraisal district in which the affected property is located of the determination.

Sec. 36.209. TREATMENT OF SUBDIVIDED PROPERTY. (a) If the commissioner orders the detachment or annexation of a portion of a parcel or item of property under this subchapter, the order shall specify the portion of the taxable value of the property to be detached or annexed and may, but need not, describe the specific area of the parcel or item to be detached or annexed.

(b) If an order for the detachment or annexation of a portion of a parcel or item of property does not describe the specific area of the parcel or item to be detached or annexed, the commissioner, as soon as practicable after issuing the order, shall determine the specific area to be detached or annexed and shall certify that determination to the appraisal district for the county in which the property is located.

(c) If portions of a parcel or item of property are located in two or more school districts as the result of a detachment or annexation, the parcel or item shall be appraised for taxation as a unit, and the commissioner shall determine the portion of the taxable value of the property that is located in each of those school districts based on the square footage of the property, or any other reasonable method adopted by the commissioner.

Sec. 36.210. DUTIES OF CHIEF APPRAISER. (a) The chief appraiser of each appraisal district shall cooperate with the commissioner in administering this subchapter. The commissioner may require the chief appraiser to submit any reports or provide any information available to the chief appraiser in the form and at the times required by the commissioner.

(b) As soon as practicable after the detachment and annexation of property, the chief appraiser of the appraisal district for the school district from which the property is detached shall send a written notice of the detachment and annexation to the owner of any property taxable in a different school district as a result of the detachment and annexation. The notice must include the name of the school district by which the property is taxable after the detachment and annexation.

(c) The commissioner may reimburse an appraisal district for any costs incurred in administering this subchapter and may condition the reimbursement or the amount of the reimbursement on the timely submission of reports or information required by the commissioner or the satisfactory performance of any other action required or requested by the commissioner.

Sec. 36.211. STUDENT ATTENDANCE. A student who is a resident of real property detached from a school district may choose to attend school in that district or in the district to which the property is annexed. For purposes of determining average daily attendance under Section 16.006, the student shall be counted in the district to which the property is annexed. If the student chooses to attend school in the district from which the property is detached, the state shall withhold any foundation school funds from the district to which the property is annexed and shall allocate to the district in which the student is attending school those funds and the amount of funds equal to the difference between the state funds the district is receiving for the student and the district's cost in educating the student.

Sec. 36.212. BOND TAXES. Property detached from a school district is released from the obligation for any tax to pay principal and interest on bonds authorized by the district before detachment. The property is subject to any tax to pay principal or interest on bonds authorized by the district to which the property is annexed whether authorized before or after annexation.

Sec. 36.213. DETERMINATION BY COMMISSIONER FINAL. A decision or determination of the commissioner of education under this subchapter is final and not appealable.

SUBCHAPTER H. CONSOLIDATION BY COMMISSIONER OF EDUCATION

Sec. 36.251. COMMISSIONER ORDER. If the commissioner of education is required under Section 36.004 to order the consolidation of districts, the consolidation is governed by this subchapter. The commissioner's order shall be effective on a date determined by the commissioner, but not later than the earliest practicable date after November 8.

Sec. 36.252. SELECTION CRITERIA. (a) In selecting the districts to be consolidated with a district that has a property wealth greater than the equalized wealth level, the commissioner shall select one or more districts with a wealth per student that, when consolidated, will result in a consolidated district with a wealth per student equal to or less than the equalized wealth level. In achieving that result, the commissioner shall give priority to school districts in the following order:

(1) first, to the contiguous district that has the lowest wealth per student and is located in the same county;

(2) second, to the district that has the lowest wealth per student and is located in the same county;

(3) third, to a contiguous district with a property wealth below the equalized wealth level that has requested the commissioner that it be considered in a consolidation plan;

(4) fourth, to include as few districts as possible that fall below the equalized wealth level within the consolidation order that have not requested the commissioner to be included;

(5) fifth, to the district that has the lowest wealth per student and is located in the same regional education service center area; and

(6) sixth, to a district that has a tax rate similar to that of the district that has a property wealth greater than the equalized wealth level.

(b) The commissioner may not select a district that has been created as a result of consolidation by agreement under Subchapter B to be consolidated under this subchapter with a district that has a property wealth greater than the equalized wealth level.

(c) In applying the selection criteria specified by Subsection (a), if more than two districts are to be consolidated, the commissioner shall select the third and each subsequent district to be consolidated by treating the district that has a property wealth greater than the equalized wealth level and the district or districts previously selected for consolidation as one district.

Sec. 36.253. GOVERNANCE. (a) Until the initial trustees elected as provided by Subsection (b) have qualified and taken office, a district consolidated under this subchapter is governed by a transitional board of trustees consisting of the board of trustees of the district having the greatest student membership on the last day of the school year preceding the consolidation plus one member of the board of trustees of each other consolidating district selected by that board.

(b) The transitional board of trustees shall divide the consolidated district into nine single-member trustee districts in accordance with the procedures provided by Section 23.024. The transitional board shall order an election for the initial board of trustees to be held on the first January uniform election date after the effective date of a consolidation order.

(c) Members of the board of trustees of a consolidated district serve staggered terms of office for four years.

(d) Section 19.058 applies to districts consolidated under this subchapter.

Sec. 36.254. DISSOLUTION OF CONSOLIDATED DISTRICT. (a) If the legislature abolishes ad valorem taxes for public school maintenance and operations and adopts another method of funding public education, the board of trustees of a consolidated district created under this subchapter may dissolve the consolidated district, provided that the dissolution is approved by a majority of those voters residing within the district participating in an election called for the purpose of approving the dissolution of the consolidated school district.

(b) If a consolidated district is dissolved, each of the former districts is restored as a separate district and is classified as an independent district.

(c) Title to real property of the consolidated district is allocated to the restored district in which the property is located. Title to proportionate shares of the fund balances and personal property of the consolidated district, as determined by Subsection (e), are allocated to each restored district.

(d) Each of the restored districts assumes and is liable for:

(1) indebtedness of the consolidated district that relates to real property allocated to the district; and

(2) a proportionate share, as determined by Subsection (e), of indebtedness of the consolidated district that does not relate to real property.

(e) A restored district's proportionate share of fund balances, personal property, or indebtedness is equal to the proportion that the number of students in average daily attendance in the restored district bears to the number of students in average daily attendance in the consolidated district.

Sec. 36.255. FUND BALANCES. Fund balances of a school district consolidated under this subchapter may be used only for the benefit of the schools within the district that generated the funds.

Sec. 36.256. EMPLOYMENT CONTRACTS. A consolidated district created under this subchapter shall honor an employment contract entered into by a consolidating district.

Sec. 36.257. APPLICATION OF SMALL AND SPARSE ADJUSTMENTS AND TRANSPORTATION ALLOTMENT. The budget of the consolidated district must apply the benefit of the adjustment or allotment to the schools of the consolidating district to which Section 16.103, 16.104, or 16.156 would have applied in the event that the consolidated district still qualifies as a small or sparse district.

SECTION 1.02. (a) Subsection (a), Section 18.03, Education Code, is amended to read as follows:

(a) *A county-unit system may not be adopted under this chapter after May 1, 1993. A system purportedly created after that date is dissolved September 1, 1993. This subsection does not affect the existence or operation of a county-unit system adopted before that date.* ~~[Any county in this state may, at an election called for that purpose under the provisions of this chapter and to the extent herein provided, adopt a county-unit system of education for the purpose of levying, assessing, and collecting a school equalization tax and for such other administrative purposes as are authorized in this chapter.]~~

(b) Sections 18.04, 18.21, 18.22, 18.23, 18.24, and 18.31, Education Code, are repealed.

SECTION 1.03. (a) Notwithstanding any provision of Chapter 36, Education Code, as added by this Act, this section applies to actions in 1993 to achieve the equalized wealth level.

(b) The commissioner shall make the determinations of wealth per student not later than August 30, 1993. The commissioner may use wealth and weighted student data from the current year or the preceding school year for purposes of those determinations. The commissioner shall immediately notify each district that exceeds the equalized wealth level and each district with which the commissioner intends to consolidate that district under Subchapter G, Chapter 36, Education Code, as added by this Act.

(c) Notwithstanding Section 36.006(b), Education Code, as added by this Act, if not later than October 19, 1993, a school district notified under Section 36.004(a)(1), Education Code, as added by this Act, has not exercised one or more options under Section 36.003, Education Code, as added by this Act, that reduce the district's wealth per student to a level equal to or less than the equalized wealth level, the commissioner of education, not later than November 8, 1993, shall order detachment of territory as provided by Subchapter G, Chapter 36, Education Code, as added by this Act. If detachment under that subchapter will not reduce the district's wealth per student to a level equal to or less than the equalized wealth level, the commissioner of education shall order the consolidation of the district with one or more other districts as provided by Subchapter H, Chapter 36, Education Code, as added by this Act.

SECTION 1.04. This article takes effect immediately.

ARTICLE 2

SECTION 2.01. Chapter 16, Education Code, is reenacted and amended to read as follows:

CHAPTER 16. FOUNDATION SCHOOL PROGRAM

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 16.001. STATE POLICY. (a) It is the policy of the State of Texas that the provision of public education is a state responsibility and that a thorough and efficient system be provided and substantially financed through state revenue sources so that each student enrolled in the public school system shall have access to programs and services that are appropriate to his or her educational needs and that are substantially equal to those available to any similar student, notwithstanding varying local economic factors.

(b) The public school finance system of the State of Texas shall adhere to a standard of neutrality which provides for substantially equal access to similar revenue per student at

similar tax effort, considering all state and local tax revenues of districts after acknowledging all legitimate student and district cost differences.

Sec. 16.002. PURPOSE OF FOUNDATION SCHOOL PROGRAM. (a) The purposes of the Foundation School Program set forth in this chapter are to guarantee that each school district in the state has:

(1) adequate resources to provide each eligible student a basic instructional program and facilities suitable to the student's educational needs; and

(2) access to a substantially equalized program of financing in excess of basic costs for certain services, as provided by this chapter.

(b) The Foundation School Program consists of two tiers to provide for the purposes specified by Subsection (a) of this section. The first tier guarantees sufficient financing for all school districts to provide a basic program of education that meets accreditation and other legal standards. The second tier provides a guaranteed yield system of financing to provide all school districts with substantially equal access to funds to provide an enriched program and additional funds for facilities.

Sec. 16.003. STUDENT ELIGIBILITY. (a) A student is entitled to the benefits of the Foundation School Program if he is 5 years of age or older and under 21 years of age at the beginning of the scholastic year and has not graduated from high school.

(b) A student to whom Subsection (a) of this section does not apply is entitled to the benefits of the Foundation School Program if the student is enrolled in a prekindergarten class under Section 21.136 of this code.

(c) The commissioner of education, in consultation with the Commissioner of Human Services, shall monitor and evaluate prekindergarten programs in the State of Texas as to their developmental appropriateness. Furthermore, the commissioner of education, in consultation with the Commissioner of Human Services, shall evaluate the potential for coordination on a statewide basis of prekindergarten programs with government-funded early childhood care and education programs such as child care administered under Chapter 44 of the Human Resources Code and federal Head Start programs. This evaluation shall utilize recommendations contained in the report to the 71st Legislature required by Chapter 717, Acts of the 70th Legislature, Regular Session, 1987. For the purpose of providing cost-effective care for children during the full work day with developmentally appropriate curriculum, the commissioners shall investigate the use of existing child care program sites as prekindergarten sites. Following the evaluation required by this section, the commissioners, in cooperation with school districts and other program administrators, shall integrate programs, staff, and program sites for prekindergarten, child care, and federal Head Start programs to the greatest extent possible.

(d) A child may be enrolled in the first grade if he is at least six years of age at the beginning of the scholastic year or has been enrolled in the first grade or has completed kindergarten in the public schools in another state prior to transferring to a Texas public school.

Sec. 16.005. ADMINISTRATION OF THE PROGRAM. The commissioner of education, in accordance with the rules of the State Board of Education, shall take such action and require such reports consistent with the terms of this chapter as may be necessary to implement and administer the Foundation School Program.

Sec. 16.006. AVERAGE DAILY ATTENDANCE. (a) In this chapter:

(1) *for the 1993-1994 and 1994-1995 school years, average daily attendance is determined by the daily attendance as averaged each month of the minimum school year as described under Section 16.052(a); and*

(2) *for the 1995-1996 school year and each year thereafter, average daily attendance is the quotient of the sum of attendance for each day of the minimum school year as described under Section 16.052(a) and for each day approved by the commissioner of education for an extended year program under Section 21.562 divided by the number of days in the minimum school year [of this code].*

(b) A school district that experiences a decline of two percent or more in average daily attendance as a result of the closing or reduction in personnel of a military base shall be

funded on the basis of the actual average daily attendance of the immediately preceding school year.

(c) The commissioner of education shall adjust the average daily attendance of school districts that have a significant percentage of students whose parent or guardian is a migrant worker. For the purposes of this subsection, "migrant worker" has the meaning assigned by Section 35.029 [21-5515] of this code.

(d) The commissioner may adjust the average daily attendance of a school district in which a disaster, flood, extreme weather condition, fuel curtailment, or other calamity has a significant effect on the district's attendance.

Sec. 16.007. PUBLIC EDUCATION INFORMATION MANAGEMENT SYSTEM (PEIMS). (a) Each school district ~~[and each county education district]~~ shall participate in the Public Education Information Management System (PEIMS) and shall provide through that system information required for the administration of this chapter and of other appropriate provisions of this code.

(b) Each school district shall use a uniform accounting system adopted by the commissioner of education for the data required to be reported for the Public Education Information Management System.

(c) Annually, the commissioner of education shall review the Public Education Information Management System and shall repeal or amend rules that require school districts to provide information through the Public Education Information Management System that is not necessary or useful. In reviewing and revising the Public Education Information Management System, the commissioner shall develop rules to ensure that the system provides useful, accurate, and timely information on student demographics and academic performance, personnel, and school district finances. [The Central Education Agency shall report annually to the Legislative Education Board the financial status of each county education district. The report shall include the total state and local education revenues for each tier of the Foundation School Program.]

Sec. 16.008. EQUALIZED FUNDING ELEMENTS. (a) The Legislative Education Board shall adopt rules, subject to appropriate notice and opportunity for public comment, for the calculation for each year of a biennium of the qualified funding elements under Section 16.256(e) of this code necessary to achieve the state policy under Section 16.001 of this code not later than the 1994-1995 school year and for each school year thereafter.

(b) ~~Not [Beginning in 1992, not]~~ later than October 1 preceding each regular session of the legislature, the board shall report the equalized funding elements to the foundation school budget committee, the commissioner of education, and the legislature.

~~[Sec. 16.009. REVENUE LIMIT. (a) The revenue limit is an amount equal to 110 percent of the amount of state and local funds guaranteed under the Foundation School Program per student in weighted average daily attendance to each school district at a total tax rate of \$0.25 per \$100 of taxable value of property as calculated for the 1994-1995 school year.~~

~~[(b) Not later than April 15, the commissioner of education shall estimate the revenue limit for each school district for the current school year and shall certify that amount to each school district.~~

~~[(c) Not later than August 15 of each year the commissioner of education shall determine as nearly as possible for the current school year:~~

~~[(1) the total amount of state and local funds per student in weighted average daily attendance available in each school district; and~~

~~[(2) the total amount of state and local funds per student in weighted average daily attendance required for debt service in each school district.~~

~~[(d) The commissioner shall determine the total number of students in weighted average daily attendance in school districts in which the amount specified in Subsection (c)(1) of this section, less the amount specified in Subsection (c)(2) of this section, exceeds the revenue limit.~~

~~[(e) If the total number of students in weighted average daily attendance in districts with state and local revenues exceeding the revenue limit equals or exceeds two percent of the~~

~~total number of students in weighted average daily attendance for the current school year, no school district may levy a tax at a rate that would result in an amount of state and local funds, excluding funds required for debt service, during the next school year that exceeds the revenue limit, except that those districts exceeding the revenue limit may maintain during the next school year the total amount of state and local funds per student in weighted average daily attendance for the current school year. The commissioner shall notify those districts in which revenues are subject to the limitation imposed in this subsection.~~

~~[(f) In this section:~~

~~[(1) "Weighted student in average daily attendance" has the meaning assigned in Section 16.302 of this code.~~

~~[(2) "Taxable value of property" has the meaning assigned in Section 11.86 of this code.~~

~~[Sec. 16.010. DEFINITION. In this chapter, "school district" does not include a county education district unless expressly included.~~

~~[Sec. 16.011. NOTICE OF YIELDS TO BE PUBLISHED. (a) Not earlier than the 30th day or later than the seventh day before the date of adopting a tax rate for the years 1991, 1992, 1993, and 1994, a school district shall publish the following notice, using the yields and tax rates certified by the commissioner:~~

~~["NOTICE OF COMPARABLE TAX RATES AND REVENUES~~

~~["The legislature has enacted a statute on school funding to comply with a court mandate enforcing the state constitution. Under prior statutes, the tax rate for last year provides _____ per student in state and local revenues. Under this statute, that same rate now provides _____ per student in state and local revenues.~~

~~["State law only requires a minimum tax rate of _____ for county education districts. State law does not require a school district to adopt additional taxes. Neither does state law require a school district to adopt a tax rate that maximizes the receipt of state funds.~~

~~["The board of trustees of the _____ School District hereby gives notice that it is considering the adoption of a tax rate of _____ that will provide _____ per student in state and local revenues."~~

~~[(b) If a district is required to give public notice of a hearing under Section 26.06, Tax Code, the notice described by Subsection (a) of this section may be included in the required notice under Section 26.06, Tax Code.~~

~~[(c) The notice described by Subsection (a) of this section shall be published in the two newspapers with the largest circulation within the school district unless only one newspaper is in general circulation within the district. The notice may not be smaller than one quarter page of a standard-size or a tabloid-size newspaper, and the headline must be 18-point or larger type.~~

~~[(d) The notice described by Subsection (a) of this section must also be included in the tax bill or a separate statement accompanying the tax bill.~~

~~[(e) The commissioner shall adopt rules to implement this section.~~

~~[(f) This section expires January 1, 1995.]~~

SUBCHAPTER B. REQUIREMENTS FOR DISTRICT PARTICIPATION IN THE FOUNDATION SCHOOL PROGRAM FUND

Sec. 16.051. REQUIRED COMPLIANCE. In order to receive financial support from the Foundation School Fund, a school district must comply with the standards set forth in this subchapter.

Sec. 16.052. OPERATION OF SCHOOLS; TEACHER PREPARATION AND STAFF DEVELOPMENT. (a) Each school district must provide for not less than 180 days of instruction for students and not less than three days of preparation for teachers for each school year, except as provided in Subsection (c) of this section.

(b) Each school district must provide for not less than 20 hours of staff development training under guidelines provided by the commissioner of education. The training provided

must include technology training and must occur during regular hours of required teacher service. On the request of a teacher, a school district may credit the teacher compensatory time to be applied toward the number of training hours required under this subsection for workshops, conferences, or other professional training that the teacher has attended.

(c) The commissioner of education may approve the operation of schools for less than the number of days of instruction and teacher preparation otherwise required when disasters, floods, extreme weather conditions, fuel curtailments, or other calamities have caused the closing of the school.

(d) Each school district may reserve three hours of the first preparation day provided each school year under Subsection (a) of this section for faculty staff meetings.

(e) *The staff development required by this section must be predominantly campus-based, for the purpose of improving student achievement, and planned with the involvement of the campus school committee established under Section 21.931 of this code. Campus staff development may include activities that enable the campus staff to plan together, to enhance existing skills, to share effective strategies, to reflect on curricular and instructional issues, to analyze student achievement results, to reflect on means of increasing student achievement, to study research, to practice new methods, to identify students' strengths and needs, to develop meaningful programs for students, to appropriately implement site-based decision making, and to conduct action research. Staff development activities may include study teams, individual research, peer coaching, workshops, seminars, conferences, and other reasonable activities that have the potential to improve student achievement.*

Sec. 16.053. ACCREDITATION. Each school district must be accredited by the Central Education Agency.

Sec. 16.054. STUDENT/TEACHER RATIOS; CLASS SIZE. (a) Except as provided by Subsection (b) of this section, each school district must employ a sufficient number of certified teachers to maintain an average ratio of not less than one teacher for each 20 students in average daily attendance.

(b) A school district may not enroll more than 22 students in a kindergarten, first, second, third, or fourth grade class. This requirement shall not apply during the last 12 weeks of any school year.

(c) In determining the number of students to enroll in any class, a district shall consider the subject to be taught, the teaching methodology to be used, and any need for individual instruction.

(d) On application of a school district, the commissioner may except the district from the limits in Subsection (b) of this section if the commissioner finds the limits work an undue hardship on the district. An exception expires at the end of the semester for which it is granted, and the commissioner may not grant an exception for more than one semester at a time.

(e) The commissioner shall report to the legislature each biennium regarding compliance with this section. The report must include:

(1) a statement of the number of school districts granted an exception under Subsection (d) of this section; and

(2) an estimate of the total cost incurred by school districts in that biennium in complying with this section.

Sec. 16.055. COMPENSATION OF PROFESSIONAL AND PARAPROFESSIONAL PERSONNEL. (a) A school district must pay each employee who is qualified for and employed in a position classified under the Texas Public Education Compensation Plan set forth in Section 16.056 of this chapter not less than the minimum monthly base salary, plus increments for teaching experience, specified for the position.

(b) Contracts for personnel shall be made on the basis of a minimum of 10 months' service, which must include the number of days of instruction for students and days of preparation for personnel required by Section 16.052 of this code. The days of preparation required herein shall be conducted by local boards of education under rules and regulations established by the State Board of Education that are consistent with the state accreditation standards for program planning, preparation, and improvement. Personnel employed for more than 10

months shall be paid not less than the minimum monthly base pay plus increments for experience for each month of actual employment. Personnel employed for 11 months at pay grades 1-11 must render 202 days of service, and personnel employed for 12 months at pay grades 1-11 must render 220 days of service. Personnel employed for 11 months at pay grades 12-18 must render 207 days of service, and personnel employed for 12 months at pay grades 12-18 must render 226 days of service. However, the number of days of service required by this subsection may be reduced by the commissioner under Section 16.052(c) of this code, and the reduction shall not reduce the total salaries of personnel.

(c) Notwithstanding Subsection (b) of this section, a vocational agriculture teacher employed for 12 months shall render 226 days of service regardless of pay grade.

Sec. 16.056. TEXAS PUBLIC EDUCATION COMPENSATION PLAN. (a) School district personnel who are qualified for and employed in positions described in Subsection (d) of this section shall be paid not less than the monthly base salary, plus increments for teaching experience, set forth in Subsection (c) of this section, or greater amounts provided by appropriation.

(b) Each individual shall advance one step per each year of experience until step 10 is reached. For each year, up to a maximum of two years, of work experience required for certification in a vocational field, a vocational teacher who is certified in that field is entitled to salary step credit as if the work experience were teaching experience.

(c) SALARY SCHEDULE BY STEPS

0	1	2	3	4	5	6	7	8	9	10
1700	1814	1928	2042	2156	2270	2384	2498	2612	2726	2840

(d) The following positions are entitled to the minimum monthly salary set by Subsection (c) of this section for the number of annual contract months specified:

No. Months Paid	Class Title
10	Nurse, R.N. and/or Bachelor's Degree
10	Special Education Related Service Personnel (other than Occupational or Physical Therapist), Bachelor's Degree
10	Teacher, Bachelor's Degree
10	Vocational Teacher,
11	Bachelor's Degree and/or
12	Certified in Field
10	Librarian I, Bachelor's Degree
10	Visiting Teacher I, Psychological Associate, Bachelor's Degree
10	Special Education Related Service Personnel (other than Occupational or Physical Therapist), Master's Degree
10	Teacher, Master's Degree
10	Vocational Teacher,
11	Master's Degree
12	
10	Librarian II, Master's Degree
10	Physician, M.D.
10	Teacher, Bachelor of Laws or Doctor of Jurisprudence Degree
10	Teacher, Doctor's Degree
10	Special Duty Teacher, Master's Degree
10	Occupational Therapist
10	Physical Therapist
10	Educational Diagnostician
10	Visiting Teacher II, Master's Degree

No. Months Paid	Class Title
10	Counselor I, Psychologist
10	School Social Worker
10	Supervisor I
10	Part-time Principal—11 or fewer teachers on campus
10	Instructional/Administrative Officer I
10	Assistant Principal—20 or more teachers on campus
10	Instructional/Administrative Officer II
11	Principal—19 or fewer teachers on campus
10	Instructional/Administrative Officer III
11	Principal—20–49 teachers on campus
11	Instructional/Administrative Officer IV
11	Principal—50–99 teachers on campus
12	Principal—100 or more teachers on campus
12	Instructional/Administrative Officer V
12	Instructional/Administrative Officer VI
12	Superintendent—District with 3,000 or less ADA
12	Instructional/Administrative Officer VII
12	Superintendent—District with 3,001–12,500 ADA
12	Instructional/Administrative Officer VIII
12	Superintendent—District with 12,501–50,000 ADA
12	Superintendent—District with 50,000 or more ADA

(e) With the approval of the State Board of Education, the commissioner of education may add additional positions and months of service to the Texas Public Education Compensation Plan to reflect curriculum and program changes authorized by law. With the approval of the board, the commissioner shall also develop policies for the implementation and administration of the compensation plan.

(f) Each person employed in the public schools of this state who is an educational aide, teacher trainee, or nondegree teacher or who is assigned to a position classified under the Texas Public Education Compensation Plan must be certified according to the certification requirements or standards for each position as established by rule adopted by the State Board of Education. However, additional certification may not be required of a person holding a valid state license as a speech language pathologist or audiologist. Persons other than those holding such a license may only be employed to render such services if an acceptable licensed applicant is not available.

(g) The State Board of Education shall prescribe the general duties and required preparation and education for educational aides, teacher trainees, and nondegree teachers and for the positions listed in Subsection (d) of this section under the circumstances described therein.

(h) In determining the placement of a teacher on the salary schedule under Subsection (c) of this section, a district shall credit the teacher for each year of experience, whether or not the years are consecutive. Notwithstanding the provision of this subsection, no teacher shall be placed on the salary schedule at a step above the step where the teacher would have been placed had that teacher remained in continuous service.

~~[Sec. 16.057. CAREER LADDER SALARY SUPPLEMENT. (a) Except as provided by Subsection (c) of this section, each teacher on level two, three, or four of a career ladder is entitled to the following annual supplement in addition to the minimum salary set by this subchapter:~~

[Level 2	\$2,000
[Level 3	\$4,000
[Level 4	\$6,000

~~[(b) If the district pays more than the state minimum salary prescribed by this subchapter, the teacher is entitled to the career ladder supplement in addition to the amount otherwise paid by the district for the teacher's step.~~

~~[(c) If the allotment under Section 16.158 of this code that is designated for support of the career ladder will not fully fund the supplements under this section;~~

~~[(1) the district may reduce the supplements to not less than the following:~~

[Level 2	\$1,500
[Level 3	\$3,000
[Level 4	\$4,500

~~or;~~

~~[(2) provide for stricter performance criteria than that provided under Section 13.302 of this code, subject to the approval of the State Board of Education; or~~

~~[(3) take action under both Subdivisions (1) and (2) of this subsection.]~~

SUBCHAPTER C. BASIC ENTITLEMENT

Sec. 16.101. BASIC ALLOTMENT. For each student in average daily attendance, not including the time students spend each day in special education *programs in an instructional arrangement other than mainstream* or vocational education programs, for which an additional allotment is made under Subchapter D of this chapter, a district is entitled to an allotment of ~~\$2,300~~ ~~[\$2,200 for the 1991-1992 school year, \$2,400 for the 1992-1993 school year, \$2,600 for the 1993-1994 school year, and \$2,800 for the 1994-1995 school year and thereafter]~~ or a greater amount adopted by the foundation school fund budget committee under Section 16.256 of this code ~~[for the 1993-1994 school year and each school year thereafter]~~. A greater amount for any school year may be provided by appropriation.

Sec. 16.102. COST OF EDUCATION ADJUSTMENT. (a) The basic allotment for each district is adjusted to reflect the geographic variation in known resource costs and costs of education due to factors beyond the control of the school district. ~~[Except as provided by this section, the adjustment is that provided under Section 16.206 of this code.]~~

(b) The adjustment for the ~~1993-1994 and 1994-1995~~ ~~[1991-1992 and 1992-1993]~~ school years is the cost of education index and formula adopted in December 1990 by the foundation school fund budget committee. ~~The [For the 1991-1992 and 1992-1993 school years, the]~~ commissioner of education shall recalculate the cost of education index for school districts that are eligible for the adjustment under Section 16.103 of this code, excluding from the computation the calculation for the diseconomies of scale component and substituting a value of 1.00. *Beginning with the 1995-1996 school year, the foundation school fund budget committee shall determine the cost of education adjustment under Section 16.256. [This subsection expires September 1, 1993.]*

Sec. 16.103. SMALL DISTRICT ADJUSTMENT. (a) The basic allotment for certain small districts is adjusted in accordance with Subsections (b) and (c) of this section. In this section:

(1) "AA" is the district's adjusted allotment per student;

(2) "ADA" is the number of students in average daily attendance for which the district is entitled to an allotment under Section 16.101 of this code; and

(3) "ABA" is the adjusted basic allotment determined under Section 16.102 of this code.

(b) The *basic allotment* ~~[average daily attendance]~~ of a school district that contains at least 300 square miles and has not more than 1,600 students in average daily attendance is adjusted by applying the formula:

$$AA = (1 + ((1,600 - ADA) \times .0004)) \times ABA$$

(c) The *basic allotment* ~~[average daily attendance]~~ of a school district that contains less than 300 square miles and has not more than 1,600 students in average daily attendance is adjusted by applying the formula:

$$AA = (1 + ((1,600 - ADA) \times .00025)) \times ABA$$

~~[(e) This section expires September 1, 1993.]~~

Sec. 16.1031. **USE OF SMALL DISTRICT ADJUSTMENT IN CALCULATING SPECIAL ALLOTMENTS.** In determining the amount of a special allotment under Subchapter D of this chapter for a district to which Section 16.103 of this code applies, a district's adjusted basic allotment is considered to be the district's adjusted allotment determined under Section 16.103. ~~[This section expires September 1, 1993.]~~

Sec. 16.104. **SPARSITY ADJUSTMENT.** Notwithstanding Sections 16.101, 16.102, and 16.103 of this code, a school district that has fewer than 130 students in average daily attendance shall be provided an adjusted basic allotment on the basis of 130 average daily attendance if it offers a kindergarten through grade 12 program and has prior or current year's average daily attendance of at least 90 students or is 30 miles or more by bus route from the nearest high school district. A district offering a kindergarten through grade 8 program whose prior or current year's average daily attendance was at least 50 students or which is 30 miles or more by bus route from the nearest high school district shall be provided an adjusted basic allotment on the basis of 75 average daily attendance. An average daily attendance of 60 students shall be the basis of providing the adjusted basic allotment if a district offers a kindergarten through grade 6 program and has prior or current year's average daily attendance of at least 40 students or is 30 miles or more by bus route from the nearest high school district. ~~[This section expires September 1, 1993.]~~

SUBCHAPTER D. SPECIAL ALLOTMENTS

Sec. 16.151. **SPECIAL EDUCATION.** (a) *For each student in average daily attendance in a special education program under Subchapter N, Chapter 21, in a mainstream instructional arrangement, a school district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 1.1.* For each full-time equivalent student in average daily attendance in a special education program under Subchapter N, Chapter 21, of this code, *in an instructional arrangement other than a mainstream instructional arrangement,* a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by a weight determined according to instructional arrangement as follows:

Homebound	5.0
Hospital class	3.0 [5.0]
Speech therapy	5.0 [7.11]
Resource room	3.0 [2.7]
Self-contained, mild and moderate, regular campus	3.0 [2.3]
Self-contained, severe, regular campus	3.0 [3.5]
Self-contained, separate campus	2.7
Multidistrict class	2.7 [3.5]
Nonpublic day school	1.7 [3.5]
Vocational adjustment class	2.3
Community class	2.7 [3.5]
[Mainstream	0.25]

(b) A special instructional arrangement for handicapped students residing in care and treatment facilities, other than state schools, whose parents or guardians do not reside in the district providing education services shall be established under the rules of the State Board of Education. The funding weight for this arrangement shall be 4.0 [5.0] for those students who receive their education service on a local school district campus. A special instructional arrangement for handicapped students residing in state schools shall be established under the rules of the State Board of Education with a funding weight of 2.8 [5.0].

(c) *Beginning with the 1995-1996 school year, the self-contained, separate campus; multidistrict class; and community class instructional arrangements shall be combined into a single instructional arrangement known as the off home campus instructional arrangement. For funding purposes, the number of contact hours credited per day for each student in the*

off home campus instructional arrangement may not exceed the contact hours credited per day for the multidistrict class instructional arrangement in the 1992-1993 school year.

(d) Beginning with the 1995-1996 school year, for funding purposes the contact hours credited per day for each student in the resource room; self-contained, mild and moderate; and self-contained, severe, instructional arrangements may not exceed the average of the statewide total contact hours credited per day for those three instructional arrangements in the 1992-1993 school year.

(e) The State Board of Education by rule shall prescribe the qualifications an instructional arrangement must meet in order to be funded as a particular instructional arrangement under this section. In prescribing the qualifications that a mainstream instructional arrangement must meet, the board shall establish requirements that students with disabilities and their teachers receive the direct, indirect, and support services that are necessary to enrich the regular classroom and enable student success.

(f) In this section, "full-time equivalent student" means 30 hours of contact a week between a special education student and special education program personnel.

(g) The State Board of Education shall adopt rules and procedures governing contracts for residential placement of special education students. The legislature shall provide by appropriation for the state's share of the costs of those placements.

(h) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, must be used in the special education program under Subchapter N, Chapter 21, of this code.

(i) In the determination of instructional arrangements for students in residential instructional arrangements, the State Board of Education shall develop arrangements that encourage placement of students in the least restrictive environment appropriate for their educational needs.

(j) The Central Education Agency shall encourage the placement of students in special education programs in the least restrictive environment appropriate for their educational needs. [The Central Education Agency shall provide transitional support for the movement of students from self-contained severe (totally self-contained) to self-contained mild and moderate (partially self-contained) instructional arrangements. For each student placed in a partially self-contained classroom who was placed in a totally self-contained classroom for at least two-thirds of the prior year, a district will receive \$2,500. This payment must be used to facilitate the placement of the student in the less restrictive environment (partially self-contained classroom). A district may not receive more than one support payment for any individual student. This support payment shall be forfeited by the district if the student is returned to the totally self-contained classroom instructional arrangement within one month of placement into the partially self-contained classroom or within one year of initial reclassification without adequate justification.]

(k) A school district that maintains for two successive years a ratio of full-time equivalent students placed in partially or totally self-contained classrooms to the number of full-time equivalent students placed in resource room or mainstream instructional arrangements [partially self-contained classrooms] that is 25 percent higher than the statewide average ratio shall be reviewed by the Central Education Agency to determine the appropriateness of student placement. The commissioner of education may reduce the special education allotment the district receives to the level to which the district would be entitled if the district's ratio was not more than 25 percent higher than the statewide average ratio. [To the extent that there are net cost savings to the state resulting from the movement of students from totally self-contained to partially self-contained, as provided in Subsection (j) of this section, those net savings will be directed to regional education service centers to provide technical assistance in accordance with Section 11.33(e) of this code regarding the movement of students to less restrictive environments to those school districts whose ratio of full-time equivalent students placed in totally self-contained classrooms is 25 percent higher than the statewide average.]

(l) A school district that provides an extended year program required by federal law for special education students who may regress is entitled to receive funds in an amount equal to 75 percent, or a lesser percentage determined by the commissioner of education, of the

adjusted basic allotment or adjusted allotment, as applicable, for each full-time equivalent student in average daily attendance, multiplied by the amount designated for the student's instructional arrangement under this section, for each day the program is provided divided by the number of days in the minimum school year. The total amount of state funding for extended year services under this section may not exceed \$10 million per year. A school district may use funds received under this section only in providing an extended year program [student in a mainstream instructional arrangement who is not also in another instructional arrangement as provided in Subsection (a) of this section is provided the support necessary for the student to remain in the regular classroom. This support may include related services as defined in Section 21.502 of this code, special teaching, or other special education support services while in the regular classroom].

(m) From the total amount of funds appropriated for special education under this section, the commissioner of education shall withhold an amount specified in the General Appropriations Act, which for the 1994–1995 biennium may not exceed \$2 million, and distribute that amount to school districts for programs under Section 21.513. The program established under that section is required only in school districts in which the program is financed by funds distributed under this section and any other funds available for the program. After deducting the amount withheld under this subsection from the total amount appropriated for special education, the commissioner of education shall reduce each district's allotment proportionately and shall allocate funds to each district accordingly.

Sec. 16.152. COMPENSATORY EDUCATION ALLOTMENT. (a) For each student who is educationally disadvantaged or who is a nonhandicapped student residing in a residential placement facility in a district in which the student's parent or legal guardian does not reside, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 0.2, and by 2.41 for each full-time equivalent student who is in a remedial and support program under Section 21.557 of this code because the student is pregnant.

(b) For purposes of this section, the number of educationally disadvantaged students is determined by averaging the best six months' enrollment in the national school lunch program of free or reduced-price lunches for the preceding school year.

(c) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, which shall not exceed 15 percent, must be used in providing remedial and compensatory education programs under Section 21.557 of this code, and the district must account for the expenditure of state funds by program and by campus. Funds allocated under this section, other than the indirect cost allotment, shall only be expended to improve and enhance programs and services funded under the regular education program.

(d) The Central Education Agency shall evaluate the effectiveness of remedial and support programs provided under Section 21.557 of this code for students at risk of dropping out of school.

(e) A school district in which the actual dropout rate in any school year exceeds the state's dropout rate goal for that year under Subsection (a) of Section 11.205 of this code shall, for the school year immediately following that school year, allocate a percentage of the district's allotment under this section to remedial and support programs under Section 21.557 of this code for students at risk of dropping out of school. The percentage allocated to those programs must be at least equal to the state's actual dropout rate for the preceding year. The programs must be programs authorized by the State Board of Education. The Central Education Agency shall provide to the district technical assistance in reducing the district's dropout rate. At the request of a district, the commissioner of education may exempt the district from the requirements of this section if the commissioner finds that special circumstances in the district merit the exemption.

(f) The commissioner of education may:

(1) retain a portion of the total amount allotted under Subsection (a) of this section that the commissioner considers appropriate to finance pilot programs under Section 11.191 of this code and to finance intensive remedial instruction programs and study guides provided under Sections 21.552(b) and (c) of this code; and

(2) reduce each district's *tier one allotments in the same manner described for a reduction in allotments under Section 16.254* ~~[allotment proportionately]~~.

(g) From the total amount of funds appropriated for allotments under this section, the commissioner of education shall, each fiscal year, withhold the amount of \$10,000,000 and distribute that amount for programs under Section 21.114 of this code. The program established under that section is required only in school districts in which the program is financed by funds distributed under this section and any other funds available for the program.

(h) The commissioner of education shall coordinate the funds withheld under Subsection (g) of this section and any other funds available for the program and shall distribute those funds. To receive funds for the program, a school district must apply to the commissioner. The commissioner shall give a preference to the districts that apply that have the highest concentration of students who are pregnant or who are parents.

(i) The commissioner of education shall withhold funds allocated under this section to a district that fails to timely prepare or make available on request of a member of the general public the report required under Section 21.557(i) of this code. The commissioner may restore withheld funds only when the commissioner is satisfied that the district has provided the information requested.

(j) ~~[(h)]~~ After deducting the amount withheld under Subsection (g) of this section from the total amount appropriated for the allotment under Subsection (a) of this section, the commissioner of education shall reduce each district's *tier one allotments in the same manner described for a reduction in allotments under Section 16.254* ~~[allotment under Subsection (a) proportionately]~~ and shall allocate funds to each district accordingly.

(k) ~~[(j)]~~ From the total amount of funds appropriated for allotments under this section, the commissioner of education shall, each fiscal year, withhold the amount of \$5,000,000 and distribute that amount for programs under Subchapter V, Chapter 21, of this code. A program established under that subchapter is required only in school districts in which the program is financed by funds distributed under this section or other funds distributed by the commissioner for a program under that subchapter.

(l) ~~[(k)]~~ The commissioner of education shall coordinate the funds withheld under Subsection (k) ~~[(j)]~~ of this section and any other funds available for the program and shall distribute those funds. To receive funds for the program, a school district must apply to the commissioner. The commissioner shall give a preference to the districts that apply that have the highest concentration of at-risk students. For each school year that a school district receives funds under this section, the district shall allocate an amount of local funds for school guidance and counseling programs that is equal to or greater than the amount of local funds that the school district allocated for that purpose during the preceding school year.

(m) ~~[(l)]~~ After deducting the amount withheld under Subsection (k) ~~[(j)]~~ of this section from the total amount appropriated for the allotment under Subsection (a) of this section, the commissioner of education shall reduce each district's *tier one allotments in the same manner described for a reduction in allotments under Section 16.254* ~~[allotment under Subsection (a) on a per-pupil basis]~~.

(n) *From the total amount of funds appropriated for allotments under this section, the commissioner of education may withhold an amount not exceeding \$1 million each fiscal year and distribute the funds to school districts that incur unanticipated expenditures resulting from a significant increase in the enrollment of nonhandicapped students who reside in residential placement facilities.*

(o) *After deducting the amount withheld under Subsection (n) from the total amount appropriated for the allotment under Subsection (a), the commissioner of education shall reduce each district's allotment under Subsection (a) proportionately.*

Sec. 16.153. BILINGUAL EDUCATION ALLOTMENT. (a) For each student in average daily attendance in a bilingual education or special language program under Subchapter L, Chapter 21, of this code, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by 0.1.

(b) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, must be used in providing bilingual education or special language programs under Subchapter L, Chapter 21, of this code.

(c) A district's bilingual education or special language allocation may be used only for program and pupil evaluation, instructional materials and equipment, staff development, supplemental staff expenses, salary supplements for teachers, and other supplies required for quality instruction and smaller class size.

Sec. 16.155. VOCATIONAL EDUCATION ALLOTMENT. (a) For each full-time equivalent student in average daily attendance in an approved vocational education program in grades nine through 12 or in vocational education for the handicapped programs in grades seven through 12, a district is entitled to an annual allotment equal to the adjusted basic allotment multiplied by a weight of 1.37.

(b) In this section, "full-time equivalent student" means 30 hours of contact a week between a student and vocational education program personnel.

(c) Funds allocated under this section, other than an indirect cost allotment established under State Board of Education rule, must be used in providing vocational education programs in grades nine through 12 or vocational education for the handicapped programs in grades seven through 12 under the provisions of Sections 21.111, 21.1111, and 21.112 of this code.

(d) The indirect cost allotment established under board rules shall first be effective for the 1991-1992 school year consistent with the weight effective that year.

(e) The commissioner shall conduct a cost-benefit comparison between vocational education programs and mathematics and science programs.

(f) [(h)] Out of the total statewide allotment for vocational education under this section, the commissioner of education shall set aside an amount specified in the General Appropriations Act, which may not exceed an amount equal to one percent of the total amount appropriated, to support regional vocational education planning committees established under Section 21.115(b) of this code. After deducting the amount set aside under this subsection from the total amount appropriated for vocational education under this section, the commissioner shall reduce each district's *tier one allotments* [allotment] in the same manner described for a reduction in *allotments* [state funds] under Section 16.254 [16.254(d)] of this code.

Sec. 16.156. TRANSPORTATION ALLOTMENT. (a) Each district or county operating a transportation system is entitled to allotments for transportation costs as provided by this section.

(b) As used in this section:

(1) "Regular eligible pupil" means a pupil who resides two or more miles from his or her campus of regular attendance, measured along the shortest route that may be traveled on public roads, and who is not classified as an eligible handicapped pupil.

(2) "Eligible handicapped pupil" means a pupil who is handicapped as defined in Section 21.503 of this code and who would be unable to attend classes without special transportation services.

(3) "Linear density" means the average number of regular eligible pupils transported daily, divided by the approved daily route miles traveled by the respective transportation system.

(c) Each district or county operating a regular transportation system is entitled to an allotment based on the daily cost per regular eligible pupil of operating and maintaining the regular transportation system and the linear density of that system. In determining the cost, the commissioner shall give consideration to factors affecting the actual cost of providing these transportation services in each district or county. The average actual cost is to be computed by the commissioner of education and included for consideration by the Foundation School Fund Budget Committee and the legislature in the General Appropriations Act. The allotment per mile of approved route may not exceed the amount set by appropriation.

(d) A district or county may apply for and on approval of the commissioner of education receive an additional amount of up to 10 percent of its regular transportation allotment to be used for the transportation of children living within two miles of the school they attend who

would be subject to hazardous traffic conditions if they walked to school. Each board of trustees shall provide to the commissioner the definition of hazardous conditions applicable to that district and shall identify the specific hazardous areas for which the allocation is requested. A hazardous condition exists where no walkway is provided and children must walk along or cross a freeway or expressway, an underpass, an overpass or a bridge, an uncontrolled major traffic artery, an industrial or commercial area, or another comparable condition.

(e) The [state] commissioner of education may grant an amount set by appropriation for private or commercial transportation for eligible pupils from isolated areas. The need for this type of transportation grant shall be determined on an individual basis and the amount granted shall not exceed the actual cost. The grants shall be made only in extreme hardship cases, and no grants shall be made if the pupils live within two miles of an approved school bus route.

(f) The cost of transporting vocational education students from one campus to another inside a district or from a sending district to another secondary public school for a vocational program or an area vocational school or to an approved post-secondary institution under a contract for instruction approved by the Central Education Agency shall be reimbursed based on the number of actual miles traveled times the district's official extracurricular travel per mile rate as set by their local board of trustees and approved by the Central Education Agency.

(g) A school district or county that provides special transportation services for eligible handicapped pupils is entitled to a state allocation paid on a previous year's cost-per-mile basis. The maximum rate per mile allowable shall be set by appropriation based on data gathered from the first year of each preceding biennium. Districts may use a portion of their support allocation to pay transportation costs, if necessary. The commissioner of education may grant an amount set by appropriation for private transportation to reimburse parents or their agents for transporting eligible handicapped pupils. The mileage allowed shall be computed along the shortest public road from the pupil's home to school and back, morning and afternoon. The need for this type transportation shall be determined on an individual basis and shall be approved only in extreme hardship cases.

(h) The allocation for eligible regular students transported by the regular transportation system shall be increased by five percent for any district or county school board which has complied with the provisions of Section 21.173 of this code in accordance with rules adopted by the State Board of Education.

(i) Funds allotted under this section must be used in providing transportation services.

(j) In the case of a district belonging to a county transportation system, the district's transportation allotment for purposes of determining a district's foundation school program allocations shall be determined on the basis of the number of approved daily route miles in the district multiplied by the allotment per mile to which the county transportation system is entitled.

Sec. 16.158. ~~TEACHER COMPENSATION [CAREER LADDER] ALLOTMENT.~~ (a) Each district is entitled to an allotment for *teacher compensation* ~~[support of the career ladder]~~ equal to its unadjusted average daily attendance multiplied by \$90.

(b) *Except as provided by Subsection (d), an [An] allotment under this section may be used only for the purposes of paying the salaries of teachers who were entitled to career ladder supplements.*

(c) ~~[From the funds designated for that purpose, the district shall supplement the salary of each teacher above level one on the career ladder. The district shall decide the amount of supplement to be provided at each career ladder level.~~

~~[(d)] Money received under this section may not be used to supplement the salary of an employee for directing cocurricular or extracurricular activities.~~

(d) If an allotment under this section exceeds the amount necessary to pay the salaries of teachers who were entitled to career ladder supplements as provided by Section 16.058, a district shall use the excess to supplement salaries of other teachers.

Sec. 16.159. GIFTED AND TALENTED STUDENT ALLOTMENT. (a) For each student a school district serves in a Central Education Agency approved program for gifted and talented students under Subchapter Q, Chapter 21, of this code or, in the case of a district that is developing a program in accordance with standards established by the commissioner of education, for each student the district identifies as gifted and talented under State Board of Education criteria, a district is entitled to an annual allotment equal to the district's adjusted basic allotment as determined under Section 16.102 or Section 16.103 of this code, as applicable, multiplied by .12 for each school year or a greater amount provided by appropriation.

(b) Funds allocated under this section, other than the amount that represents the program's share of general administrative costs, must be used in providing approved programs for gifted and talented students under Subchapter Q, Chapter 21, of this code or, in the case of a district that has not yet established a program, in developing programs for gifted and talented students. Each district must account for the expenditure of state funds as provided by rule of the State Board of Education. If by the end of the 12th month after receiving an allotment for developing a program a district has failed to implement an approved program, the district must refund the amount of the allotment to the agency within 30 days.

(c) Not more than five percent of a district's students in average daily attendance are eligible for funding under this section.

(d) If the amount of state funds for which school districts are eligible under this section exceeds the amount of state funds appropriated in any year for the programs, the commissioner of education shall reduce each district's tier one allotments in the same manner described for a reduction in allotments under Section 16.254 [allotment on a pro-rata basis].

(e) If the total amount of funds allotted under this section before a date set by rule of the State Board of Education is less than the total amount appropriated for a school year, the commissioner shall distribute the remainder proportionately to the districts that have received an allotment, and no other districts are eligible for an allotment for that school year.

(f) After each district has received allotted funds for this program, the State Board of Education may use up to \$500,000 of the funds allocated under this section for programs such as Future Problem Solving Olympics of the Mind, and Academic Decathlon, as long as these funds are used to train personnel and provide program services. To be eligible for funding under this section, a program must be determined by the State Board of Education to provide services that are effective and consistent with the state plan for gifted and talented education.

Sec. 16.160. TECHNOLOGY FUNDS. (a) Developmental and technology allotment allocations under the provisions of Chapter 14 are included in the Foundation School Program.

(b) Each district shall be allotted the amount specified in Section 14.063 of this code after deductions by the commissioner of education for the purposes of financing programs authorized under Subchapter C, Chapter 14, of this code.

SUBCHAPTER F. ACCOUNTABLE COSTS OF EDUCATION

Sec. 16.201. PURPOSE. The accountable costs of education studies are designed to support the development of the equalized funding elements necessary to provide an efficient state and local public school finance system which meets the state policy established in Section 16.001 of this code and provides the research basis for the equalized funding elements under the provisions of Section 16.256 of this code.

~~[Sec. 16.202. STUDIES. On a biennial basis, the Legislative Education Board and the Legislative Budget Board, with the assistance of the Educational Economic Policy Center and the Central Education Agency, shall complete each of the following studies and develop recommended amounts where appropriate for each year of the next biennium:~~

~~[(1) a study of the fiscal neutrality of the system to determine the status of the state and local finance system with regard to the policies established under the provisions of Section 16.001 of this code, including recommendations for adjustments necessary to maintain fiscal neutrality;~~

~~[(2) the accountable costs per student to school districts of providing educational programs, personnel, and other operating costs that meet accreditation criteria and the provisions of law and regulation;~~

~~[(3) program cost differentials designed by program to provide support for the added expense of high-cost courses or programs for students participating in such courses or programs, with the program funding level expressed as dollar amounts and as weights applied to the adjusted basic allotment for the appropriate year;~~

~~[(4) transportation and career ladder allotments;~~

~~[(5) the levels of tax effort necessary for each tier of the Foundation School Program necessary to fulfill the requirements of Sections 16.001 and 16.008 of this code; and~~

~~[(6) capital outlay and debt service requirements and formula elements for the requirements of Subchapter I of this chapter or other provisions of this chapter.~~

~~[Sec. 16.203. PROCEDURES. (a) The program cost differentials developed jointly by the Legislative Education Board and the Legislative Budget Board shall be submitted to the foundation school fund budget committee for adoption beginning with the 1993-1994 school year. If the foundation school fund budget committee fails to adopt by April 1 the program cost differentials for the following school year, the commissioner of education, after considering the recommendations developed by those boards, shall adopt program cost differentials.~~

~~[(b) The commissioner of education shall provide appropriate assistance to the boards for the calculation of the various funding elements. Subject to review by the Legislative Education Board, the commissioner of education shall retain from the allotments under Sections 16.102 and 16.103 of this code and Subchapter D of this chapter amounts appropriate to finance necessary additional costs for the studies required under this subchapter.~~

~~[(c) The boards may appoint advisory committees to assist in the development of the various funding elements and studies required under this subchapter. Advisory committee members serve without compensation but are entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties. Reimbursement shall be from funds available under Subsection (b) of this section or from other funds available to the boards.~~

~~[(d) In the studies relating to program cost differentials the boards shall give special consideration to cost factors associated with class size, laboratory expenses, materials, equipment, teacher training, necessary salary supplementation, and special services related to individual courses or groups of courses.~~

~~[Sec. 16.204. NAVAL MILITARY FACILITY IMPACT. (a) The model on which a cost of education index is based must specifically consider the impact of a significant new naval military facility on each district in an impacted region.~~

~~[(b) If the construction or operation of a significant new naval military facility begins during a school year, the Legislative Education Board and the Legislative Budget Board shall recommend the adjustment of the basic allotment during that school year to consider any impact of the facility on the cost of education index of the districts in the impacted region.~~

~~[(c) In this section, "significant new naval military facility" and "impacted region" have the meanings assigned by Section 4, Article 1, National Defense Impacted Region Assistance Act of 1985 (Article 689a-4d, Vernon's Texas Civil Statutes).~~

~~[(d) This section expires September 1, 1993.]~~

Sec. 16.205. *LIMIT ON ADMINISTRATIVE COSTS.* (a) The commissioner of education by rule shall determine annually:

(1) an administrative cost ratio for school districts with fewer than 500 students in average daily attendance;

(2) an administrative cost ratio for school districts with 500 to 999 students in average daily attendance;

(3) an administrative cost ratio for school districts with 1,000 to 4,999 students in average daily attendance;

(4) an administrative cost ratio for school districts with 5,000 to 9,999 students in average daily attendance; and

(5) an administrative cost ratio for school districts with more than 10,000 students in average daily attendance.

(b) *The commissioner of education may adjust the administrative cost ratio of a district to allow for additional administrative costs required by:*

- (1) the sparsity of the district; or*
- (2) students with special needs.*

(c) Not later than February 1 of each year, the commissioner of education shall notify all districts of the requirements and standards for determining administrative cost ratios for the following year. Not later than May 1 of each year, Central Education Agency staff shall conduct a desk audit of prior-year expenditure data available through the Public Education Information Management System (PEIMS) to identify those districts whose administrative cost ratio in the prior year exceeded their adjusted group standard. Districts with an administrative cost ratio in excess of their adjusted group standard shall be notified not later than May 15 that they have excessive administrative costs and that they are required to reduce these costs to the level of the adjusted group standard for the following school year. Not later than the 60th day after receiving notification, a district shall respond to the commissioner of education by submitting a description of the district's plan to comply with the standard for the following year or request a waiver from the commissioner of education explaining why the district cannot comply with the standard. Not later than August 15, the commissioner of education shall notify responding districts if further action is needed.

(d) If a school district fails to reduce administrative costs to the level required by this section, the commissioner of education shall deduct from a school district's tier one allotments an amount equal to the amount by which the district's administrative costs exceed the amount permitted by its administrative cost ratio, unless the commissioner has granted a waiver in response to the district's request. The commissioner shall make a deduction under this subsection from the foundation school fund payments to the district in the school year following the school year in which the plan to reduce costs was to be implemented. If a school district does not receive a tier one allotment, the district shall remit an amount equal to the excess to the comptroller for deposit to the credit of the foundation school fund.

(e) The commissioner of education may grant a waiver to a school district that exceeds its administrative cost ratio if the excess is justified by unusual circumstances.

(f) A school district shall include a statement of any amount withheld or remitted under Subsection (d) in the district report card required by Section 35.042.

(g) In this section:

(1) "Administrative cost ratio" means a school district's administrative costs divided by its instructional costs, expressed as a percentage.

(2) "Administrative costs" are defined as operating expenses made from funds other than federal funds associated with managing, planning, directing, coordinating, and evaluating a school district in accordance with Accounting functions 21 - Instructional Administration, and 41 - General Administration as described in the Financial Accounting Manual Bulletin 679 for Budgeting, Accounting, and Auditing in Texas Public Schools, Ninth Edition, published by the Central Education Agency.

(3) "Instructional costs" are defined as operating expenses made from funds other than federal funds associated with teacher-student instruction in accordance with Accounting functions 11 - Instruction, 22 - Instructional Resources and Media Services, 25 - Curriculum and Instructional Staff Development, and 31 - Guidance and Counseling Services as described in the Financial Accounting Manual Bulletin 679 for Budgeting, Accounting, and Auditing in Texas Public Schools, Ninth Edition, published by the Central Education Agency.

(4) "Adjusted group standard" is the acceptable administrative cost ratio for each district as determined in accordance with Subsections (a) and (b). ~~EFFICIENCY IN ADMINISTRATION REPORT. (a) The commissioner of education shall conduct a study to determine the most appropriate and efficient method for reporting and monitoring the allocation of resources by school districts.~~

~~[(b) The study shall identify the most effective means for calculating, monitoring, and reporting the proportion of resources that school districts allocate for their administrative costs and shall include administrator-teacher ratios.~~

~~[(c) The study shall include a description of average efficient administrative expenditures by districts with consideration of district size and demographics.~~

~~[(d) Prior to the beginning of each regular session of the legislature, the agency shall provide a report with recommendations to the Legislative Education Board and the legislature.~~

~~[(e) The study is an element of the study of accountable costs of education under this subchapter.~~

~~[Sec. 16.206. COST ADJUSTMENTS. (a) The lieutenant governor shall appoint five members of the senate and the speaker of the house of representatives shall appoint five members of the house to a committee to conduct a study of certain costs of providing public education as provided by this section. The lieutenant governor and the speaker shall make the appointments not later than September 1, 1991.~~

~~[(b) The committee shall examine methods of adjusting for specific resource cost variations caused by factors beyond the control of school districts. The committee shall recommend adjustments for these factors that will provide the most efficient service delivery considering optimum district size, enrollment growth, and other cost factors. For the purpose of the study, the committee shall divide districts and campuses into a variety of categories that may include region, size, area, density, educational characteristics, and economic conditions.~~

~~[(c) The committee may appoint one or more advisory panels to assist the committee in conducting the study. Advisory panel members serve without compensation but are entitled to reimbursement for actual and necessary expenses incurred in the performance of their duties.~~

~~[(d) The committee shall recommend adjustments to the Foundation School Program for resource cost variations caused by factors beyond the control of school districts to the foundation school fund budget committee not later than June 1, 1992. The adjustments shall include:~~

~~[(1) an adjustment to account for fast enrollment growth and other factors relevant to a district's need for facilities; and~~

~~[(2) appropriate treatment of the calculation of weighted students under Section 16.302 of this code.~~

~~[(e) The foundation school fund budget committee by rule shall adopt adjustments to the Foundation School Program for resource cost variations beyond the control of school districts to apply beginning with the 1993-1994 school year. The foundation school fund budget committee shall report the adjustments adopted to the legislature and the commissioner of education. If the foundation school fund budget committee fails to adopt the adjustments by November 1, 1992, the commissioner of education by rule shall adopt adjustments not later than December 1, 1992.~~

~~[(f) The rules adopted under this section apply beginning with the 1993-1994 school year. If no rules are adopted under this section, the basic allotment calculated under Sections 16.008 and 16.256(e) of this code shall be increased to reflect the costs associated with the adjustments made by the cost of education index and formula for the 1992-1993 school year.]~~

SUBCHAPTER G. FINANCING THE PROGRAM

Sec. 16.251. FINANCING; GENERAL RULE. (a) The sum of the basic allotment under Subchapter C and[,] the special allotments under Subchapter D, *computed in accordance with this chapter, constitute the tier one allotments. The sum of the tier one allotments and the guaranteed yield allotments under Subchapter H, computed in accordance with [the provisions of] this chapter, constitute the total cost of the Foundation School Program.*

(b) The program shall be financed by:

(1) ad valorem tax revenue generated by an equalized uniform *school [county education]* district effort;

(2) ad valorem tax revenue generated by local school district effort in excess of the equalized uniform school [county-education] district effort;

(3) state available school funds distributed in accordance with law; and

(4) state funds appropriated for the purposes of public school education and allocated to each district in an amount sufficient to finance the cost of each district's Foundation School Program not covered by other funds specified in this subsection.

(c) The commissioner of education shall compute for each school district the total amount, if any, by which the district's total revenue is reduced from one school year to the next because of a change in the method of finance under this chapter. The commissioner shall certify the amount of the reduction to the school district for use in determining the school district's rollback rate under Section 26.08, Tax Code.

Sec. 16.252. LOCAL SHARE OF PROGRAM COST (TIER ONE). (a) Each school [county-education] district's share of the Foundation School Program shall be an amount determined by the following formula:

$$LFA = TR \times DPV$$

where:

"LFA" is the school [county-education] district's local share;

"TR" is a tax rate which for each hundred dollars of valuation is an effective tax rate of \$0.86 [~~\$0.72 for the 1991-1992 school year, \$0.82 for the 1992-1993 school year, \$0.92 for the 1993-1994 school year, and \$1.00 for each school year thereafter~~]; and

"DPV" is the taxable value of property in the school [county-education] district for the prior tax year determined under Section 11.86 of this code.

(b) The commissioner of education shall adjust the values reported in the official report of the comptroller as required by Section 5.09(a), [Property] Tax Code, to reflect reductions in taxable value of property resulting from natural or economic disaster after January 1 in the year in which the valuations are determined. The decision of the commissioner of education shall be final. An adjustment does not affect the local fund assignment of any other school [county-education] district.

(c) Appeals of district values shall be held pursuant to Subsection (e) of Section 11.86 of this code.

(d) A school [county-education] district *must* [shall] raise its total local share of the foundation school program *to be eligible to receive foundation school fund payments*. [~~The funds shall be reallocated to the school districts in the county-education district in the manner prescribed by Subchapter J of this chapter.~~]

(e) The commissioner of education shall hear appeals from school [county-education] districts which have experienced a rapid decline in tax base used in calculating the local fund assignment, exceeding eight percent of prior year, that is beyond the control of the board of trustees of the [county-education] district. The commissioner of education may adjust the [county-education] district's taxable values for local fund assignment purposes for such losses in value exceeding eight percent and thereby adjust the local fund assignment to reflect the local current year taxable value. The decision of the commissioner of education shall be final. An adjustment does not affect the local fund assignment of any other school [county-education] district. *This subsection shall apply to determinations by the commissioner in identifying districts with wealth per student exceeding the equalized wealth level pursuant to Section 36.004.*

Sec. 16.254. DISTRIBUTION OF FOUNDATION SCHOOL FUND. (a) *For each school year the commissioner of education shall determine:*

- (1) *the amount of money to which a school district is entitled under Subchapters C and D;*
- (2) *the amount of money to which a school district is entitled under Subchapter H;*
- (3) *the amount of money allocated to the district from the available school fund;*
- (4) *the amount of each district's tier one local share under Section 16.252; and*
- (5) *the amount of each district's tier two local share under Section 16.303.*

(b) *The commissioner shall base the determinations under Subsection (a) on the estimates provided to the legislature under Section 16.2541 for each school district for each school year or different estimates provided by the General Appropriations Act.*

(c) *Each school district is entitled to an amount equal to the difference for that district between the sum of Subsections (a)(1) and (a)(2) and the sum of Subsections (a)(3), (a)(4), and (a)(5).*

(d) *The commissioner shall approve warrants to each school district equaling the amount of its entitlement except as provided by this section. Warrants for all money expended according to this chapter shall be approved and transmitted to treasurers or depositories of school districts in the same manner that warrants for state payments are transmitted. The total amount of the warrants issued under this section may not exceed the total amount appropriated for foundation school program purposes for that fiscal year.*

(e) *The commissioner shall recompute the amount to which the district is entitled under Subsection (c) if a school district's tax rate is less than the limit authorized under this subsection. The amount to which a district is entitled under this section may not exceed the amount to which the district would be entitled at the district's tax rate for the final year of the preceding biennium, or a different tax rate provided by appropriation. The commissioner shall recompute the amount to which a district is entitled to the extent necessary under this section. The commissioner shall approve warrants to the school in the amount that results from the new computation. An amount equal to the difference between the initial allocation and the amount of the warrants shall be transferred to a special account in the foundation school fund known as the reserve account.*

(f) *Amounts transferred to the reserve account under Subsection (e) shall be used in the succeeding fiscal year to finance increases in allocations to school districts under Subsection (i). If the amount in the reserve account is less than the amount of the increases under Subsection (i) for the second year of a state fiscal biennium, the commissioner shall certify the amount of the difference to the foundation school fund budget committee not later than January 1 of the second year of the state fiscal biennium. The committee shall propose to the legislature that the certified amount be transferred to the foundation school fund from the economic stabilization fund and appropriated for the purpose of increases in allocations under Subsection (h).*

(g) *If a school district demonstrates to the satisfaction of the commissioner that the estimate of the district's tax rate, student enrollment, or taxable value of property used in determining the amount of state funds to which the district is entitled are so inaccurate as to result in undue financial hardship to the district, the commissioner may adjust funding to that district in that school year to the extent that funds are available for that year, including funds in the reserve account. Funds in the reserve account may not be used under this subsection until any reserve funds have been used for purposes of Subsection (f).*

(h) *If the legislature fails during the regular session to enact the transfer and appropriation proposed under Subsection (f) and there are not funds available under Subsection (j), the commissioner shall reduce the total amount of state funds allocated to each district by an amount determined by a method under which the application of the same number of cents of increase in tax rate in all districts applied to the taxable value of property of each district, as determined under Section 11.86, results in a total levy equal to the total reduction. The following fiscal year, a district's entitlement under this section is increased by an amount equal to the reduction made under this subsection.*

(i) *Not later than March 1 each year, the commissioner shall determine the actual amount of state funds to which each school district is entitled under the allocation formulas in this chapter for the current school year and shall compare that amount with the amount of the warrants issued to each district for that year. If the amount of the warrants differs from the amount to which a district is entitled because of variations in the district's tax rate, student enrollment, or taxable value of property, the commissioner shall adjust the district's entitlement for the next fiscal year accordingly.*

(j) *The legislature may appropriate funds necessary for increases under Subsection (i) from funds that the comptroller, at any time during the fiscal year, finds are available.*

(k) *The commissioner shall compute for each school district the total amount by which the district's allocation of state funds is increased or reduced under Subsection (i) and shall certify that amount to the district.*

(l) *In this section, the number of weighted students in average daily attendance is calculated in the manner provided by Section 16.302. [The commissioner of education shall determine annually:*

~~(1) the amount of money necessary to operate a Foundation School Program in each school district;~~

~~(2) the amount of local funds due the school district from the local fund assignment of the county education district; and~~

~~(3) the amount of state available school funds distributed to each school district.~~

~~(b) The commissioner of education shall then grant to each school district from the Foundation School Program appropriation the amount of funds necessary to provide the difference between Subdivision (1) and the sum of Subdivisions (2) and (3) of Subsection (a) of this section.~~

~~(c) The commissioner shall approve warrants to each school district equaling the amount of its grant. Warrants for all money expended according to the provisions of this chapter shall be approved and transmitted to treasurers or depositories of school districts in the same manner as warrants for state apportionment are transmitted.~~

~~(d) Notwithstanding any other provision of this chapter, if for any year the total state's share of the Foundation School Program, as determined under this chapter, exceeds the total amount appropriated for that year, the commissioner shall reduce the total amount of state funds allocated to each district by an amount determined by a method under which the application of the same number of cents of increase in tax rate applied to the taxable value of property of each district, as determined under Section 11.86 of this code, results in a levy for each district equal to the amount deducted from that district's allocation.~~

~~(e) The commissioner of education shall compute for each school district the total amount by which the district's allocation of state funds is reduced under Subsection (d) of this section and shall certify that amount to the district.]~~

Sec. 16.2541. ESTIMATES REQUIRED. (a) Not later than October 1 of each even-numbered year:

(1) the Central Education Agency shall submit to the foundation school fund budget committee and the legislature an estimate of the tax rate and student enrollment of each school district for the following biennium; and

(2) the comptroller shall submit to the foundation school fund budget committee and the legislature an estimate of the total taxable value of all property in the state as determined under Section 11.86 for the following biennium.

(b) The Central Education Agency and the comptroller shall update the information provided to the legislature under Subsection (a) not later than March 1 of each odd-numbered year.

Sec. 16.255. FALSIFICATION OF RECORDS; REPORT. (a) When, in the opinion of the director of school audits of the Central Education Agency, audits or reviews of accounting, enrollment, or other records of a school district reveal deliberate falsification of the records, or violation of the provisions of this chapter, whereby the district's share of state funds allocated under the authority of this chapter would be, or has been, illegally increased, the director shall promptly and fully report the fact to the State Board of Education and the state auditor.

(b) In the event of overallocation of state funds, as determined by the State Board of Education or the state auditor by reference to the director's report, the Central Education Agency shall, by withholding from subsequent allocations of state funds, recover from the district an amount, or amounts, equal to the overallocation.

Sec. 16.256. FOUNDATION SCHOOL FUND BUDGET COMMITTEE. (a) The foundation school fund budget committee is composed of the governor, the lieutenant governor, and the comptroller ~~[of public accounts].~~

(b) On or before *December* ~~[November]~~ 1 before each regular session of the legislature, the budget committee shall determine and certify to the comptroller ~~[of public accounts]~~ an amount of money to be placed in the foundation school fund for the succeeding biennium for the purpose of financing the Foundation School Program as described in this code.

(c) The budget committee may, during the biennium, change the estimate of money necessary to finance the Foundation School Program.

(d) The foundation school fund budget committee shall adopt rules for the calculation for each year of a biennium of the qualified funding elements necessary to achieve the state funding policy under Section 16.001 of this code not later than the 1994-1995 school year and for each year thereafter. In the calculation of these funding elements, the committee shall consider the report of the Legislative Education Board prescribed under Section 16.008 of this code.

(e) The funding elements shall include:

(1) a basic allotment for the purposes of Section 16.101 of this code that represents the cost per student of a regular education program that meets the basic criteria for an accredited program including all mandates of law and regulation;

(2) adjustments designed to reflect the variation in known resource costs and costs of education beyond the control of school districts;

(3) appropriate program cost differentials and other funding elements for the programs authorized under Subchapter D of this chapter, with the program funding level expressed as dollar amounts and as weights applied to the adjusted basic allotment for the appropriate year;

(4) the maximum guaranteed level of qualified state and local funds per student for the purposes of Subchapter H of this chapter;

(5) the enrichment and facilities tax rate under Subchapter H of this chapter;

(6) the formula elements for the funding formulas for capital outlay and debt service under the provision of Subchapter I of this chapter; and

(7) the calculation of weighted students in average daily attendance under Section 16.302 of this code.

(f) ~~Not~~ ~~[Beginning in 1992, not]~~ later than *December* ~~[November]~~ 1 preceding each regular session of the legislature, the foundation school fund budget committee by rule shall adopt and report the equalized funding elements calculated under this section to the commissioner of education and the legislature. Before the committee adopts the elements, the committee or the committee's designees shall hold a public hearing on the recommendations of the Legislative Education Board.

~~[(g) Notwithstanding other provisions of this section, the funding elements adopted by the foundation school fund budget committee for the 1993-1994 school year and the 1994-1995 school year shall provide for appropriate transition from the program in effect for the 1992-1993 school year.]~~

Sec. 16.258. EFFECT OF APPRAISAL APPEAL. (a) If the final determination of an appeal under Chapter 42, Tax Code, results in a reduction in the taxable value of property that exceeds five percent of the total taxable value of property in the school district for the same tax year determined under Section 11.86 of this code, the commissioner of education shall request the comptroller to adjust its taxable property value findings for that year consistent with the final determination of the appraisal appeal.

(b) If the district would have received a greater amount from the foundation school fund for the applicable school year using the adjusted value, the commissioner shall add the difference to subsequent distributions to the district from the foundation school fund. An adjustment does not affect the local fund assignment of any other district.

Sec. 16.260. FOUNDATION SCHOOL FUND TRANSFERS. (a) In this section:

(1) "Category 1 school district" means a school district having a wealth of less than one-half of the statewide average wealth.

(2) "Category 2 school district" means a school district having a wealth of at least one-half of the statewide average wealth per pupil but not more than the statewide average wealth.

(3) "Category 3 school district" means a school district having a wealth of more than the statewide average wealth.

(4) "Wealth" means the taxable property values reported by the comptroller to the commissioner of education under Section 16.252 of this code divided by the number of students in average daily attendance.

(b) Payments from the foundation school fund to each category 1 school district shall be made as follows:

(1) 21 percent of the yearly entitlement of the district shall be paid in two equal installments to be made on or before the 25th day of September and October of a fiscal year;

(2) 57 percent of the yearly entitlement of the district shall be paid in six equal installments to be made on or before the 25th day of November, December, January, February, March, and July; and

(3) 22 percent of the yearly entitlement of the district shall be paid in two equal installments to be made on or before the 25th day of April and May.

(c) Payments from the foundation school fund to each category 2 school district shall be made as follows:

(1) 21 percent of the yearly entitlement of the district shall be paid in two equal installments to be made on or before the 25th day of September and October of a fiscal year;

(2) 38 percent of the yearly entitlement of the district shall be paid in four equal installments to be made on or before the 25th day of November, December, March, and July;

(3) seven percent of the yearly entitlement of the [school] district shall be paid in two equal installments to be made on or before the 25th day of January and February;

(4) 22 percent of the yearly entitlement of the [school] district shall be paid in two equal installments to be made on or before the 25th day of April and May; and

(5) 12 percent of the yearly entitlement of the [school] district shall be paid in two equal installments to be made on or before the 25th day of June and August.

(d) Payments from the foundation school fund to each category 3 school district shall be made as follows:

(1) 21 percent of the yearly entitlement of the *district* [school] shall be paid in two equal installments to be made on or before the 25th day of September and October of a fiscal year;

(2) 57 percent of the yearly entitlement of the *district* [school] shall be paid in six equal installments to be made on or before the 25th day of November, December, March, June, July, and August; and

(3) 22 percent of the yearly entitlement of the [school] district shall be paid in two equal installments to be made on or before the 25th day of April and May.

(e) The amount of any installment required by this section may be modified to provide a school district with the proper amount to which the district may be entitled by law and to correct errors in the allocation or distribution of funds. If an installment under this section is required to be equal to other installments, the amount of other installments may be adjusted to provide for that equality. A payment under this section is not invalid because it is not equal to other installments.

SUBCHAPTER H. GUARANTEED YIELD PROGRAM (TIER TWO)

Sec. 16.301. PURPOSE. The purpose of the guaranteed yield component of the Foundation School Program is to provide each school district with the opportunity to supplement the basic program at a level of its own choice and with access to additional funds for facilities.

An allotment under this subchapter may be used for any legal purpose, including capital outlay and debt service.

Sec. 16.302. ALLOTMENT. ~~[(a)]~~ Each school district is guaranteed a specified amount per weighted student in state and local funds for each cent of tax effort over that required for the ~~district's~~ local fund assignment ~~[of the county education district in which the school district is located]~~ up to the maximum level specified in this subchapter. The amount of state support, subject only to the maximum amount under Section 16.303 of this code, is determined by the formula:

$$GYA = (GL \times WADA \times DTR \times 100) - LR$$

where:

"GYA" is the guaranteed yield amount of state funds to be allocated to the district;

"GL" is the dollar amount guaranteed level of state and local funds per weighted student per cent of tax effort, which is ~~\$20.55~~ ~~[\$21.50 for the 1991-1992 school year, \$22.50 for the 1992-1993 school year, \$26 for the 1993-1994 school year, and \$28 for each school year thereafter,]~~ or a greater amount for any year provided by appropriation, or a greater amount adopted by the foundation school fund budget committee under Section 16.256(d) ~~[of this code for the 1993-1994 or 1994-1995 school year or thereafter];~~

"WADA", except as provided by Section 16.206 of this code, is the number of weighted students in average daily attendance, which is calculated by dividing the sum of the school district's allotments under Subchapters C and D of this chapter, less any allotments to the district for transportation, *teacher compensation* ~~[career ladder supplements]~~, or technology and 50 percent of the adjustment under Section 16.102 of this code, by the basic allotment for the applicable year;

"DTR" is the district enrichment and facilities tax rate of the school district, which is determined by *subtracting the district's local fund assignment from* ~~[dividing]~~ the total amount of taxes collected by the school district for the applicable school year *and dividing the difference* by the quotient of the district's taxable value of property as determined under Section 11.86 of this code divided by 100; and

"LR" is the local revenue, which is determined by multiplying "DTR" by the quotient of the district's taxable value of property as determined under Section 11.86 of this code divided by 100.

~~[(b) Beginning with the 1993-1994 school year, if the program cost differentials developed jointly by the Legislative Education Board and the Legislative Budget Board under Section 16.203 of this code and the adjustments studied under Section 16.206 of this code are not adopted by the foundation school fund budget committee or the commissioner of education, the amount guaranteed under this section is an amount per student rather than per weighted student and a school district's average daily attendance ("ADA") under Section 16.006 of this code is substituted for "WADA" in the formula under Subsection (a) of this section.]~~

Sec. 16.303. LIMITATION ON ENRICHMENT AND FACILITIES TAX RATE. The district enrichment and facilities tax rate ("DTR") under Section 16.302 of this code may not exceed ~~\$0.64 per \$100 of valuation, [\$0.45]~~ or a greater amount ~~[for 1993-1994 and 1994-1995 school years or thereafter as]~~ adopted by the foundation school fund budget committee under Section 16.256(d) of this code.

Sec. 16.304. COMPUTATION OF AID FOR DISTRICT ON MILITARY RESERVATION OR AT STATE SCHOOL. State assistance under this subchapter for a school district located on a federal military installation or at Moody State School is computed using the average tax rate and property value per student of school districts in the county, as determined by the commissioner of education.

SUBCHAPTER I. CAPITAL OUTLAY AND DEBT SERVICE

Sec. 16.401. INVENTORY OF SCHOOL FACILITIES. (a) The State Board of Education shall establish a statewide inventory of school facilities and shall update the inventory on a periodic basis.

(b) The inventory shall include information on the condition, use, type, and replacement cost of public school facilities in this state.

Sec. 16.402. STANDARDS. The State Board of Education shall establish standards for adequacy of school facilities. The standards shall include requirements related to space, educational adequacy, and construction quality. All facilities constructed after September 1, 1992, must meet the standards in order to be financed with state or local tax funds.

Sec. 16.403. ADVISORY COMMITTEE. The State Board of Education shall appoint a committee composed of 15 persons knowledgeable of various aspects of school facility planning, construction, renovation, and financing. The advisory committee shall provide the board and the commissioner with assistance on the development of the inventory system, the creation of facility standards, and the conduct of facility research related to current and future roles of the state in the provision of financial and technical assistance to school districts. The members of the committee shall serve without compensation but may be reimbursed for actual and necessary expenses.

SUBCHAPTER J. COUNTY EDUCATION DISTRICT DISTRIBUTIONS

~~[Sec. 16.501. TIER ONE. (a) The commissioner of education shall notify each county education district of the total amount of funds that each school district in the county education district is entitled to receive under tier one of the Foundation School Program.~~

~~[(b) For tier one, the board of trustees of each county education district shall distribute the funds collected from the tax levied by the county education district under Section 20.945 of this code to the school districts in the county on the basis of the component districts' share of the taxable value of property of the county education district with the provision that no component district shall receive funds in excess of the cost of tier one less the distribution of the available school fund.~~

~~[(c)(1) Notwithstanding Subsection (b) of this section, for the 1991-1992, 1992-1993, and 1993-1994 school years, for tier one the board of trustees of each county education district shall distribute the funds collected from the tax levied by the county education district under Section 20.945 of this code to the school districts in the county education district as follows:~~

~~[(A) to those school districts that did not receive foundation school funds for the 1990-1991 school year in which the amount of revenue per weighted student from local funds and the available school fund for the 1990-1991 school year exceeds the total amount of revenue per weighted student to which the district is entitled under the Foundation School Program at a tax rate equal to the maximum tax rate authorized under Section 20.09 of this code, the county education district shall distribute an amount equal to the difference between the amount of revenue per weighted student in the district in the 1990-1991 school year from local funds and the available school fund and the levy that results from the application of the maximum rate authorized under Section 20.09 of this code to the district's taxable value of property; and~~

~~[(B) the county education district shall apportion the remaining funds collected from the tax levy to each school district in the county education district on the basis of the component districts' share of the taxable value of property of the county education district with the provision that no component district shall receive funds in excess of the cost of tier one less the distribution of the available school fund.~~

~~[(2) This subsection expires September 1, 1994.~~

~~[(d) If the total amount available for distribution by the county education district exceeds the county education district's local share under Section 16.252 of this code, the county education district shall retain the excess amount for distribution in succeeding years.~~

~~[(e) If the total amount available for distribution by the county education district is less than the county education district's local share under Section 16.252 of this code, the distributions shall be made under rules adopted by the commissioner of education.~~

~~[Sec. 16.502. COLLECTION AND DISTRIBUTION SCHEDULES. The commissioner of education shall establish a schedule for the distribution of funds to each school district under this subchapter.~~

~~[Sec. 16.503. DEFINITION. In this subchapter, "taxable value of property" is the value determined under Section 11.86 of this code.]~~

SECTION 2.02. Subsections (b) and (e), Section 14.063, Education Code, are amended to read as follows:

(b) Each school district is entitled to an annual allotment for the purposes provided under Section 14.064 of this code equal to its unadjusted average daily attendance multiplied by:

- ~~[(1)] \$30 [for the 1992-1993 school year, or a greater amount provided by appropriation;~~
- ~~[(2)] \$35 for the 1993-1994 school year, or a greater amount provided by appropriation;~~
- ~~[(3)] \$40 for the 1994-1995 school year, or a greater amount provided by appropriation;~~
- ~~[(4)] \$45 for the 1995-1996 school year, or a greater amount provided by appropriation;~~

~~and~~

~~[(5)] \$50 for the 1996-1997 school year and for each school year thereafter], or a greater amount provided by appropriation.~~

(e) If an insufficient amount is available in the fund for the state's share of the allotments under Subsection (b) of this section, the agency shall reduce each district's allotment *in the same manner described for a reduction in allotments* ~~[by application of the formula adopted]~~ under Section 16.254 ~~[16.254(d)]~~ of this code.

SECTION 2.03. Subsections (a) and (b), Section 20.09, Education Code, are amended to read as follows:

(a) Except as provided by Subsections (c) and (d) *and unless specifically approved in an election called for that purpose* ~~[of this section]~~, a school district may not impose a total tax rate on the \$100 valuation of taxable property that ~~[results in a levy that]~~ exceeds \$1.50. ~~[the levy that results from applying the following rate to the district's taxable value of property as determined under Section 11.86 of this code:]~~

- ~~[(1)] \$0.78 for the 1991 tax year;~~
- ~~[(2)] \$0.68 for the 1992 tax year;~~
- ~~[(3)] \$0.58 for the 1993 tax year; and~~
- ~~[(4)] \$0.50 for each subsequent tax year.]~~

(b) A district may impose taxes under this chapter on the residence homestead of a person whose taxes for general elementary and secondary public school purposes are limited under Article VIII, Section 1-b(d), of the Texas Constitution, only to the extent that the imposition~~[, when added to the taxes imposed on the homestead by the county education district,]~~ does not increase the person's tax liability for those purposes in violation of the constitutional limit.

SECTION 2.04. Section 26.08, Tax Code, is amended to read as follows:

Sec. 26.08. ELECTION TO LIMIT SCHOOL TAXES. (a) If the governing body of a school district adopts a rate that exceeds the *school district rollback tax rate* ~~[sum of the district's effective maintenance rate, the rate of \$0.08, and the district's current debt rate]~~, the qualified voters of the district ~~at~~ *[by petition may require that]* an election ~~[be]~~ *held for that purpose must* ~~[to]~~ determine whether or not to limit the tax rate the governing body may adopt for the *current* ~~[following]~~ year *to the school district rollback tax rate*. When increased expenditure of funds by a school district is necessary to respond to a disaster, such as a tornado, hurricane, flood, or other calamity (not including a drought) which has impacted a school district and the governor has requested federal disaster assistance for the area in which the school district is located, *an election* ~~[a petition]~~ is not *required* ~~[valid]~~ under this section to repeal a tax increase adopted the next time the district adopts a tax rate after the date the disaster occurs.

(b) *The* ~~[A petition is valid only if:]~~

~~[(1)] it states that it is intended to require an election in the school district on the question of limiting the tax rate for the following year;~~

~~[(2)] it is signed by a number of qualified voters of the school district equal to at least 10 percent of the number of qualified voters of the district according to the most recent official list of qualified voters not counting the signatures of voters gathered by a person who received compensation for circulating the petition; and~~

~~[(3) it is submitted to the governing body on or before the 90th day after the date on which the governing body adopted the tax rate for the current year.~~

~~[(e) Not later than the 20th day after the day a petition is submitted, the governing body shall determine whether or not the petition is valid and pass a resolution stating its finding. If the governing body fails to act within the time allowed, the petition is treated as if it had been found valid.~~

~~[(d) If the] governing body [finds that the petition is valid (or fails to act within the time allowed), it] shall order that the [an] election be held in the school district on a date not less than 30 or more than 90 days after the [last] day on which it adopted the tax rate [could have acted to approve or disapprove the petition]. A state law requiring local elections to be held on a specified date does not apply to the election unless a specified date falls within the time permitted by this section. At the election, the ballots shall be prepared to permit voting for or against the proposition: "Reducing [Limiting] the ad valorem tax rate in (name of school district) for the current year from (the rate adopted) to (the school district rollback tax rate) [(the following year)]."~~

~~(c) [(e)] If a majority of the qualified voters voting on the question in the election favor the proposition, the [governing body may not adopt a] tax rate for the school district for [in] the current [following] year is [that exceeds] the school district rollback tax rate calculated for that year; otherwise the tax rate for the current year is the one adopted by the governing body [using the following formula:~~

~~**[ROLLBACK TAX RATE = ((EFFECTIVE MAINTENANCE AND OPERATIONS RATE FOR ELECTION YEAR) + \$0.08 (X 1.08)) + CURRENT DEBT RATE**~~

~~where "election year" denotes amounts used in calculating the rollback tax rate in the year in which the tax increase that initiated the referendum occurred rather than the year in which the calculation occurs].~~

~~(d) For purposes of this section, except as provided by Subsection (e), the school district rollback tax rate of a school district is the sum of:~~

~~(1) the tax rate that, applied to the current total value for the district, would impose taxes in an amount that, when added to state funds to be distributed to the district under Chapters 15 and 16, Education Code, for the school year beginning in the current tax year, would provide the same amount of state funds and local maintenance and operations taxes per student in weighted average daily attendance for that school year that was available to the district in the preceding year;~~

~~(2) the rate of \$0.06; and~~

~~(3) the district's current debt rate.~~

~~(e) In the first year in which a school district that is the product of the consolidation of two or more whole school districts adopts a tax, the school district rollback tax rate for the consolidated district is the sum of:~~

~~(1) the tax rate that, applied to the current total value for the district, would impose taxes in an amount that, when added to state funds to be distributed to the district under Chapters 15 and 16, Education Code, for the school year beginning in the current tax year, would provide the same amount of state funds and local maintenance and operations taxes per student in weighted average daily attendance for that school year that was available to the component district in the preceding year for which that amount was greater than for any other component district;~~

~~(2) the rate of \$0.06; and~~

~~(3) the consolidated district's current debt rate.~~

~~(f) For purposes of Subsections (d) and (e), the amount of state funds and local maintenance and operations taxes that was available to a school district in the preceding year is the amount of state funds distributed to the school district under Chapters 15 and 16, Education Code, for the preceding school year and the total amount of local maintenance and operations taxes imposed by the district in the preceding tax year.~~

(g) *In this section, "weighted students in average daily attendance" has the meaning assigned by Section 16.302, Education Code.*

(h) ~~[(f)]~~ For purposes of this section, local tax funds dedicated to a junior college district under Section 20.48(e), [Texas] Education Code, shall be eliminated from the calculation of the tax rate adopted by the governing body of the school district. However, the funds dedicated to the junior college district are subject to Section 26.085 of this code.

(i) *In calculating the school district rollback tax rate for a school district for the 1993 tax year, county education district taxes received by the school district for the 1992-1993 school year are treated as state funds distributed to the district under Chapter 16, Education Code, for that school year. This subsection expires January 1, 1995.*

~~[(g) If a school district is certified by the commissioner of education under Section 16.251(e), Education Code, to have been subject to a reduction in total revenue for the school year ending on August 31 of the tax year:~~

~~[(1) the district's effective maintenance and operations rate for the tax year is calculated as provided by Section 26.012, except that last year's levy is reduced by the amount of taxes imposed in the preceding year, if any, to offset the amount of any reduction certified by the commissioner of education under Section 16.251(e), Education Code, for the school year ending on August 31 of the preceding year; and~~

~~[(2) the district's rollback tax rate for the tax year calculated as provided by Section 26.04 or by Subsection (e) of this section, as applicable, is increased by the tax rate that, if applied to the current total value for the school district, would impose taxes in an amount equal to the amount of the reduction certified by the commissioner of education under Section 16.251(e), Education Code, for the school year ending on August 31 of the tax year.~~

~~[(i) If a school district is certified by the commissioner of education under Section 16.254(e), Education Code, to have been subject to a reduction in state funds for the school year ending on August 31 of the tax year:~~

~~[(1) the district's effective maintenance and operations rate for the tax year is calculated as provided by Section 26.012, except that last year's levy is reduced by the amount of taxes imposed in the preceding year, if any, to offset the amount of any reduction in state funds certified by the commissioner of education under Section 16.254, Education Code, for the school year ending on August 31 of the preceding year; and~~

~~[(2) the district's rollback tax rate for the tax year calculated as provided by Section 26.04 or by Subsection (e) of this section, as applicable, is increased by the tax rate that, if applied to the current total value for the school district, would impose taxes in an amount equal to the amount of the reduction in state funds certified by the commissioner of education under Section 16.254, Education Code, for the school year ending on August 31 of the tax year.~~

~~[(j) In a school district that received distributions from an equalization tax imposed under Chapter 18, Education Code, the effective rate of that tax as of the date of the county-unit system's abolition is added to the district's effective maintenance and operations rate under Subsections (a) and (e) of this section in the calculation of the district's rollback tax rate.]~~

SECTION 2.05. It is the intent of the 73rd Legislature that, in case of a conflict, the funding provisions for an optional extended year program as provided by Section 21.562, Education Code, as added by this Act, control over any other funding provisions for the program enacted by the 73rd Legislature during its regular session.

SECTION 2.06. (a) Notwithstanding the requirement in Section 16.254, Education Code, as amended by this Act, requiring determinations under that section to be based on estimates provided under Section 16.2541, Education Code, as added by this Act, or on different estimates provided by the General Appropriations Act, for the biennium ending August 31, 1995, determinations required under Section 16.254 shall be based on estimates provided by the Legislative Budget Board model run, number 401, as adjusted to reflect options exercised by school districts under Chapter 36, Education Code, as added by this Act.

(b) Changes in funding to school districts for special education under Sections 16.151(a) and (b), Education Code, and under Section 16.101, Education Code, to the extent of its reference to the mainstream instructional arrangement, as those sections are amended by this Act,

apply beginning with the 1994–1995 school year. For the 1993–1994 school year, the weights provided by Sections 16.151(a) and (b), Education Code, as those sections existed before amendment by this Act, apply to funding to school districts for special education and those sections are continued in effect for that purpose.

(c) Any other changes in the funding of public schools made by this Act apply beginning with the 1993–1994 school year.

SECTION 2.07. To the extent that reenactment of Chapter 16, Education Code, by this article conflicts with another enactment of the 73rd Legislature, Regular Session, 1993, amending a provision of that chapter, the other enactment prevails without regard to the relative dates of enactment.

SECTION 2.08. This article takes effect immediately.

ARTICLE 3

SECTION 3.01. Subsection (c), Section 21.032, Education Code, is amended to read as follows:

(c) Unless specifically exempted by Section 21.033 of this code, a student enrolled in a public school district must attend *an extended year program provided by a school district for which the student is eligible or* tutorial classes required by the district under Section 21.103(b) of this code. *A district shall provide transportation services to students required to attend an extended year program provided by a school district in the same manner as during the regular school year.* A school district is not required to provide transportation services to accommodate [such] students *required to attend tutorial classes under Section 21.103(b).*

SECTION 3.02. Section 21.502, Education Code, is amended to read as follows:

Sec. 21.502. DEFINITIONS. As used in this subchapter, “special services” means:

(1) “special teaching,” which may be provided by professional and paraprofessional personnel in the following instructional settings:

- (A) resource room;
- (B) self-contained classroom, regular or special campus;
- (C) hospital or community class;
- (D) homebound or bedside;
- (E) speech or hearing therapy class; or
- (F) *mainstream; or*

(2) “related services,” which are developmental, corrective, supportive, or evaluative services, not instructional in nature, that may be required for the proper development and implementation of a handicapped student’s individualized educational plan, including but not limited to special transportation, school health services, counseling with students or families, psychological services, audiological services, visual training, medical or psychiatric diagnostic services, occupational therapy, physical therapy, recreational therapy, social work services, parent counseling and training, adaptive equipment, special seating, orientation and mobility training, speech therapy, music therapy, and corrective therapy.

SECTION 3.03. Subsection (b), Section 21.506, Education Code, is amended to read as follows:

(b) Except as provided by Subsection (c) of this section, contracts for residential placements when approved may be paid for from a combination of federal, state, and local funds. The local share of the total contract cost per pupil is that portion of the local tax effort (total dollars generated by debt service and maintenance taxes) which exceeds the district’s local fund assignment *under Section 16.252*, divided by the average daily attendance in the district. If the contract involves a private facility, the state share of the total contract cost is that which remains after subtracting the local share. If the contract involves a public facility other than a program or facility administered by the Central Education Agency, the state share is that which remains after subtracting the local share from that portion of the contract which involves the costs of instructional and related services. If the contract involves a

program or facility administered by the Central Education Agency, there is no state share paid from this program.

SECTION 3.04. Subchapter O, Chapter 21, Education Code, is amended by adding Sections 21.562 and 21.563 to read as follows:

Sec. 21.562. STATE-FUNDED OPTIONAL EXTENDED YEAR PROGRAM. (a) A school district may apply to the commissioner of education for funding and approval of an extended year program for a period not to exceed 30 days for students in kindergarten through grade level eight who are identified as likely not to be promoted to the next grade level for the succeeding school year.

(b) The commissioner may adopt rules for the administration of programs provided under this section.

(c) A school district may not enroll more than 12 students in a class provided under this section.

(d) Each class provided under this section shall be taught by a teacher who has completed successfully a program that provides training to teach a class under this section and that satisfies standards the commissioner establishes.

(e) A student who attends at least 85 percent of the program days of a program under this section shall be promoted to the next grade level at the beginning of the next school year unless a parent of the student presents a written request to the school principal that the student not be promoted to the next grade level. As soon as practicable after receiving the request from a parent, the principal shall hold a formal meeting with the student's parent, extended year program teacher, and counselor. During the meeting, the principal, teacher, or counselor shall explain the longitudinal statistics on the academic performance of students who are not promoted to the next grade level and provide information on the effect of retention on a student's self-esteem and on the likelihood of a student dropping out of school. After the meeting, the parent may withdraw the request that the student not be promoted to the next grade level. If the parent of a student eligible for promotion under this subsection withdraws the request, the student shall be promoted. If a student is promoted under this subsection, the school district shall continue to use innovative practices to ensure that the student is successful in school in succeeding years.

(f) A school district that provides a program under this section shall adopt a policy designed to lead to immediate reduction and ultimate elimination of student retention.

(g) A school district may apply for approval under this section only for a pilot program for students in grade level one for the 1993-1994 school year and only for a pilot program for students in grade levels one and two for the 1994-1995 school year. The state's share of a pilot program under this section may not exceed the amount appropriated for program purposes. Funds provided to a pilot program may be used for transportation of eligible students. This subsection expires September 1, 1995.

Sec. 21.563. OPTIONAL EXTENDED YEAR PROGRAM. (a) A school district may apply to the commissioner of education for approval to provide an extended year program for a period not to exceed 45 days for students in kindergarten through grade level eight who would otherwise not be promoted.

(b) In order to provide the funding necessary for a program approved under this section, with the approval of the commissioner, a school district may provide a number of days of instruction for students during the regular school term that is up to five days less than the number otherwise required under Section 16.052(a). A school district providing a program under this section is not entitled to funding appropriated for purposes of providing programs under Section 21.562.

(c) The commissioner may adopt rules for the administration of programs provided under this section.

SECTION 3.05. Subchapter Z, Chapter 21, Education Code, is amended by adding Section 21.939 to read as follows:

Sec. 21.939. LEGISLATIVE LOBBYIST OR LIAISON; PROHIBITION. (a) A school district may not employ a person who is required to register under Chapter 305, Government Code, by virtue of the person's activities on behalf of the school district.

(b) A school district may not employ a person whose primary duties are activities related to proposed legislation or administrative action, including supplying information to members of the legislative or executive branch, obtaining information from members of the legislative or executive branch, monitoring the progress of proposed legislation or administrative action, or acting as an advocate or proponent of proposed legislation or administrative action.

(c) A school district that employs a person in violation of this section is liable to this state for a civil penalty in an amount equal to three times the total compensation the district has paid to that person. The attorney general may sue to collect the penalty.

(d) If a civil penalty is imposed against a school district under this section, the commissioner of education shall reduce the amount allocated to the district from the foundation school fund in an amount equal to the compensation paid by the district to the person employed in violation of this section.

SECTION 3.06. This article takes effect immediately and applies beginning with the 1993-1994 school year.

ARTICLE 4

SECTION 4.01. Subsection (a), Section 11.86, Education Code, is amended to read as follows:

(a) The comptroller shall conduct an annual study using comparable sales and generally accepted auditing and sampling techniques to determine the total value of all taxable property in each ~~[county education]~~ school district ~~[and each of its component school districts]~~. The study shall determine the taxable value of all property and of each category of property within the district and the productivity value of all land that qualifies for appraisal on the basis of its productive capacity and for which the owner has applied for and received a productivity appraisal. *The comptroller shall make appropriate adjustments in the study to account for actions taken under Chapter 36.* In conducting the study, the comptroller shall review the appraisal standards, procedures, and methodology used by each appraisal district to determine the taxable value of property in each school district. The review must test the validity of the taxable values assigned to each category of property by the appraisal district:

(1) using, if appropriate, samples selected through generally accepted sampling techniques; and

(2) according to generally accepted standard valuation, statistical compilation, and analysis techniques. If the comptroller finds in the annual study that generally accepted appraisal standards and practices were used by the appraisal district in valuing a particular category of property, and that the taxable values assigned to each category of property by the appraisal district are valid, the appraisal roll value of that category of property is presumed to represent taxable value. In the absence of such a presumption, the comptroller shall estimate the taxable value of that category of property using generally accepted standard valuation, statistical compilation, and analysis techniques. For the purposes of this section, "taxable value" means market value less:

(1) the total dollar amount of any exemptions of part but not all of the value of taxable property required by the constitution or a statute that a district lawfully granted in the year that is the subject of the study;

(2) the total dollar amount of any *abatements* ~~[exemptions]~~ granted *before May 31, 1993*, within a reinvestment zone under agreements authorized by the Property Redevelopment and Tax Abatement Act (Chapter 312, Tax Code);

(3) the total dollar amount of any captured appraised value of property that is located in a reinvestment zone and that is eligible for tax increment financing under the Tax Increment Financing Act (Chapter 311, Tax Code);

(4) the total dollar amount of any exemptions granted under Section 11.251, Tax Code;

(5) the difference between the market value and the productivity value of land that qualifies for appraisal on the basis of its productive capacity, except that the productivity value may not exceed the fair market value of the land;

(6) the portion of the appraised value of residence homesteads of the elderly on which school district taxes are not imposed in the year that is the subject of the study, calculated as if the residence homesteads were appraised at the full value required by law;

(7) a portion of the market value of property not otherwise fully taxable by the district at market value because of action required by statute or the Texas Constitution that, if the tax rate adopted by the district is applied to it, produces an amount equal to the difference between the tax that the district would have imposed on the property if the property were fully taxable at market value and the tax that the district is actually authorized to impose on the property; and

(8) the market value of all tangible personal property, other than manufactured homes, owned by a family or individual and not held or used for the production of income.

SECTION 4.02. Subchapter B, Chapter 23, Education Code, is amended by adding Section 23.34 to read as follows:

Sec. 23.34. CONTRACTS FOR EDUCATIONAL SERVICES. The board of trustees of an independent school district may contract with a public or private entity for that entity to provide educational services for the district.

SECTION 4.03. Subsection (f), Section 317.005, Government Code, is amended to read as follows:

(f) The governor or board may adopt an order under this section withholding or transferring any portion of the total amount appropriated to finance the foundation school program for a fiscal year. The governor or board may not adopt such an order if it would result in an allocation of money between particular programs or statutory allotments under the foundation school program contrary to the statutory proration formula provided by Section 16.254(h) [16.254(d)], Education Code. The governor or board may transfer an amount to the total amount appropriated to finance the foundation school program for a fiscal year and may increase the basic allotment. The governor or board may adjust allocations of amounts between particular programs or statutory allotments under the foundation school program only for the purpose of conforming the allocations to actual pupil enrollments or attendance.

SECTION 4.04. Subdivision (12), Section 1.04, Tax Code, is amended to read as follows:

(12) "Taxing unit" means a county, an incorporated city or town (including a home-rule city), a school district, ~~[a county education district,]~~ a special district or authority (including a junior college district, a hospital district, a district created by or pursuant to the Water Code, a mosquito control district, a fire prevention district, or a noxious weed control district), or any other political unit of this state, whether created by or pursuant to the constitution or a local, special, or general law, that is authorized to impose and is imposing ad valorem taxes on property even if the governing body of another political unit determines the tax rate for the unit or otherwise governs its affairs.

SECTION 4.05. Section 6.02, Tax Code, is amended by amending Subsections (b) and (f) and adding Subsection (g) to read as follows:

(b) A taxing unit ~~[other than a county education district]~~ that has boundaries extending into two or more counties may choose to participate in only one of the appraisal districts. In that event, the boundaries of the district chosen extend outside the county to the extent of the unit's boundaries. To be effective, the choice must be approved by resolution of the board of directors of the district chosen. *The choice of a school district to participate in a single appraisal district does not apply to property annexed to the school district under Subchapter C or G, Chapter 36, Education Code, unless:*

(1) *the school district taxes property other than property annexed to the district under Subchapter C or G, Chapter 36, Education Code, in the same county as the annexed property; or*

(2) *the annexed property is contiguous to property in the school district other than property annexed to the district under Subchapter C or G, Chapter 36, Education Code. [A county education district that has boundaries extending into two or more counties must participate in each appraisal district in which one of its component school districts participates for purposes of appraisal of the component school district's territory.]*

(f) All costs of operating an appraisal district in territory outside the county for which the appraisal district is established are allocated to the taxing unit *for which the appraisal district appraises property in* ~~[that chooses to add]~~ that territory ~~[to the district]~~. If the appraisal district appraises property in the same territory for two or more taxing units ~~[add the same territory to an appraisal district]~~, costs of operating the district in that territory are allocated to the units in the proportion the total dollar amount of taxes each unit imposes in that territory bears to the total dollar amount of taxes all taxing units participating in the appraisal district impose in that territory.

(g) *If property is annexed to a school district under Subchapter C or G, Chapter 36, Education Code, the appraisal district established for the county in which the property is located shall appraise the property for the school district, and the school district participates in that appraisal district for purposes of the appraisal of that property, except as otherwise permitted by Subsection (b).*

SECTION 4.06. Section 6.03, Tax Code, is amended by amending Subsections (c) through (e) and adding Subsection (m) to read as follows:

(c) Members of the board of directors are appointed by vote of the governing bodies of the incorporated cities and towns, the school districts ~~[other than the county education district]~~, and, if entitled to vote, the conservation and reclamation districts that participate in the district and of the county. A governing body may cast all its votes for one candidate or distribute them among candidates for any number of directorships. Conservation and reclamation districts are not entitled to vote unless at least one conservation and reclamation district in the district delivers to the chief appraiser a written request to nominate and vote on the board of directors by June 1 of each odd-numbered year. On receipt of a request, the chief appraiser shall certify a list by June 15 of all eligible conservation and reclamation districts that are imposing taxes and that participate in the district.

(d) The voting entitlement of a taxing unit that is entitled to vote for directors is determined by dividing the total dollar amount of property taxes imposed in the district by the taxing unit for the preceding tax year by the sum of the total dollar amount of property taxes imposed in the district for that year by each taxing unit that is entitled to vote, by multiplying the quotient by 1,000, and by rounding the product to the nearest whole number. That number is multiplied by the number of directorships to be filled. ~~[For a school district, the total dollar amount of property taxes imposed in the district by the unit is considered to be the sum of the taxes imposed by the district and the revenue received by the district from the county education district.]~~ A taxing unit participating in two or more districts is entitled to vote in each district in which it participates, but only the taxes imposed in a district are used to calculate voting entitlement in that district.

(e) The chief appraiser shall calculate the number of votes to which each taxing unit other than a conservation and reclamation district is entitled and shall deliver written notice to each of those units of its voting entitlement before October 1 of each odd-numbered year. The chief appraiser shall deliver the notice:

(1) to the county judge and each commissioner of the county served by the appraisal district;

(2) to the presiding officer of the governing body of each city or town participating in the appraisal district, to the city manager of each city or town having a city manager, and to the city secretary or clerk, if there is one, of each city or town that does not have a city manager; and

(3) to the presiding officer of the governing body of each school district ~~[other than the county education district]~~, participating in the district and to the superintendent of those school districts.

(m) *If a school district participates in an appraisal district in which the only property of the school district located in the appraisal district is property annexed to the school district under Subchapter C or G, Chapter 36, Education Code, an individual who does not meet the residency requirements of Subsection (a) is eligible to be appointed to the board of directors of the appraisal district if:*

(1) *the individual is a resident of the school district; and*

(2) the individual is nominated as a candidate for the board of directors by the school district or, if the taxing units have adopted a change in the method of appointing board members that does not require a nomination, the school district appoints or participates in the appointment of the individual.

SECTION 4.07. Subsections (d) and (h), Section 6.06, Tax Code, are amended to read as follows:

(d) Each taxing unit participating in the district~~[, other than a county education district,]~~ is allocated a portion of the amount of the budget equal to the proportion that the total dollar amount of property taxes imposed in the district by the unit for the tax year in which the budget proposal is prepared bears to the sum of the total dollar amount of property taxes imposed in the district by each participating unit for that year. ~~[For a school district, other than a county education district, the total dollar amount of property taxes imposed in the district by the unit is considered to be the sum of the taxes imposed by the district and the revenue received by the district from the county education district.]~~ If a taxing unit participates in two or more districts, only the taxes imposed in a district are used to calculate the unit's cost allocations in that district. If the number of real property parcels in a taxing unit is less than 5 percent of the total number of real property parcels in the district and the taxing unit imposes in excess of 25 percent of the total amount of the property taxes imposed in the district by all of the participating taxing units for a year, the unit's allocation may not exceed a percentage of the appraisal district's budget equal to three times the unit's percentage of the total number of real property parcels appraised by the district.

(h) If a newly formed taxing unit or a taxing unit that did not impose taxes in the preceding year~~[, other than a county education district,]~~ imposes taxes in any tax year, that unit is allocated a portion of the amount budgeted to operate the district as if it had imposed taxes in the preceding year, except that the amount of taxes the unit imposes in the current year is used to calculate its allocation. Before the amount of taxes to be imposed for the current year is known, the allocation may be based on an estimate to which the district board of directors and the governing body of the unit agree, and the payments made after that amount is known shall be adjusted to reflect the amount imposed. The payments of a newly formed taxing unit that has no source of funds are postponed until the unit has received adequate tax or other revenues.

SECTION 4.08. Subsections (d), (e), (m), and (n), Section 11.13, Tax Code, are amended to read as follows:

(d) In addition to the exemptions provided by Subsections (b) and (c) of this section, an individual who is disabled or is 65 or older is entitled to an exemption from taxation by a taxing unit of a portion (the amount of which is fixed as provided by Subsection (e) of this section) of the appraised value of his residence homestead if the exemption is adopted either:

- (1) by the governing body of the taxing unit ~~[other than a county education district]; or~~
- (2) by a favorable vote of a majority of the qualified voters of the taxing unit at an election called by the governing body of a taxing unit ~~[other than a county education district]~~, and the governing body shall call the election on the petition of at least 20 percent of the number of qualified voters who voted in the preceding election of the taxing unit~~[-or~~
- ~~[(3) by a favorable vote of a majority of the qualified voters of a county education district at an election held under Section 20.950, Education Code].~~

(e) The amount of an exemption adopted as provided by Subsection (d) of this section is \$3,000 of the appraised value of the residence homestead unless a larger amount is specified by:

- (1) the governing body authorizing the exemption if the exemption is authorized as provided by Subdivision (1) of Subsection (d) of this section; or
- (2) the petition for the election if the exemption is authorized as provided by Subdivision (2) of Subsection (d) of this section~~[-or~~
- ~~[(3) the proposition approved at an election held under Section 20.950, Education Code].~~

(m) In this section:

- (1) "Disabled" means under a disability for purposes of payment of disability insurance benefits under Federal Old-Age, Survivors, and Disability Insurance.

(2) "School district" means a political subdivision organized to provide general elementary and secondary public education. [~~"School district" includes a county education district established by the consolidation of the local school districts in its boundaries for the limited purpose of exercising a portion of the taxing power previously authorized by the voters in those school districts.~~] "School district" does not include a junior college district or a political subdivision organized to provide special education services.

(n) In addition to any other exemptions provided by this section, an individual is entitled to an exemption from taxation by a taxing unit [~~other than a county education district~~] of a percentage of the appraised value of his residence homestead if the exemption is adopted by the governing body of the taxing unit before May 1 in the manner provided by law for official action by the body. If the percentage set by the taxing unit produces an exemption in a tax year of less than \$5,000 when applied to a particular residence homestead, the individual is entitled to an exemption of \$5,000 of the appraised value. The percentage adopted by the taxing unit may not exceed 20 percent. [~~In addition to any other exemptions provided by this section, an individual is entitled to an exemption from taxation by a county education district of a percentage of the appraised value of his residence homestead if the exemption is adopted by the voters of the district at an election held in the district for that purpose under Section 20.946, Education Code.~~] If the percentage set by the voters produces an exemption in a tax year of less than \$5,000 when applied to a particular residence homestead, the individual is entitled to an exemption of \$5,000 of the appraised value. The percentage adopted by the voters may not exceed 20 percent.

SECTION 4.09. Subsections (c) and (e), Section 11.14, Tax Code, are amended to read as follows:

(c) The governing body of a taxing unit, [~~other than a county education district,~~] by resolution or order, depending upon the method prescribed by law for official action by that governing body, may provide for taxation of tangible personal property exempted under Subsection (a). [~~The voters of a county education district, by an election held under Section 20.951, Education Code, may provide for taxation of tangible personal property exempted under Subsection (a).~~] If a taxing unit provides for taxation of tangible personal property as provided by this subsection, the exemption prescribed by Subsection (a) does not apply to that unit.

(e) A political subdivision [~~other than a county education district~~] choosing to tax property otherwise made exempt by this section, pursuant to Article VIII, Section 1(e), of the Texas Constitution, may not do so until the governing body of the political subdivision has held a public hearing on the matter, after having given notice of the hearing at the times and in the manner required by this subsection, and has found that the action will be in the public interest of all the residents of that political subdivision. At the hearing, all interested persons are entitled to speak and present evidence for or against taxing the property. Not later than the 30th day prior to the date of a hearing held under this subsection, notice of the hearing must be:

(1) published in a newspaper having general circulation in the political subdivision and in a section of the newspaper other than the advertisement section;

(2) not less than one-half of one page in size; and

(3) republished on not less than three separate days during the period beginning with the 10th day prior to the hearing and ending with the actual date of the hearing.

SECTION 4.10. Section 21.01, Tax Code, is amended to read as follows:

Sec. 21.01. REAL PROPERTY. Real property is taxable by a taxing unit if located in the unit on January 1, *except as provided by Chapter 36, Education Code.*

SECTION 4.11. Section 21.02, Tax Code, is amended to read as follows:

Sec. 21.02. TANGIBLE PERSONAL PROPERTY GENERALLY. (a) Except as provided by Subsection (b) and Sections 21.021, 21.04, and 21.05 [~~of this code~~], tangible personal property is taxable by a taxing unit if:

(1) it is located in the unit on January 1 for more than a temporary period;

(2) it normally is located in the unit, even though it is outside the unit on January 1, if it is outside the unit only temporarily;

(3) it normally is returned to the unit between uses elsewhere and is not located in any one place for more than a temporary period; or

(4) the owner resides (for property not used for business purposes) or maintains his principal place of business in this state (for property used for business purposes) in the unit and the property is taxable in this state but does not have a taxable situs pursuant to Subdivisions (1) through (3) of this section.

(b) Tangible personal property having taxable situs at the same location as real property detached from a school district and annexed by another school district under Chapter 36, Education Code, is taxable in the tax year in which the detachment and annexation occurs by the same school district by which the real property is taxable in that tax year under Chapter 36, Education Code. For purposes of this subsection and Chapter 36, Education Code, tangible personal property has taxable situs at the same location as real property detached and annexed under Chapter 36, Education Code, if the detachment and annexation of the real property, had it occurred before January 1 of the tax year, would have changed the taxable situs of the tangible personal property determined as provided by Subsection (a) from the school district from which the real property was detached to the school district to which the real property was annexed.

(c) Tangible personal property has taxable situs in a school district that is the result of a consolidation under Chapter 36, Education Code, in the year in which the consolidation occurs if the property would have had taxable situs in the consolidated district in that year had the consolidation occurred before January 1 of that year.

SECTION 4.12. Section 25.25, Tax Code, is amended by adding Subsection (h) to read as follows:

(h) The chief appraiser shall change the appraisal records and school district appraisal rolls promptly to reflect the detachment and annexation of property among school districts under Subchapter C or G, Chapter 36, Education Code.

SECTION 4.13. The following provisions are repealed:

(1) Section 1.05 and Subchapter G, Chapter 20, Education Code;

(2) Sections 6.061(f), 26.12(e), and 312.002(e) and (f), Tax Code.

SECTION 4.14. Effective September 1, 1993, each county education district created under Section 2, Chapter 20, Acts of the 72nd Legislature, Regular Session, 1991, is abolished.

SECTION 4.15. (a) On August 31, 1993, each county education district shall transfer its funds to its component school districts in the manner provided by rule of the commissioner of education, except any penalties paid to a county education district in 1993 shall be allocated to the school district that is the situs of the property that incurred the penalties.

(b) On September 1, 1993, any assets of a county education district other than funds are transferred to its component school districts in the manner and amounts provided by rule of the commissioner of education.

(c) On September 1, 1993, the contracts and other liabilities of a county education district are transferred to its component school districts in the manner and amounts, including joint obligations, provided by rule of the commissioner of education.

(d) The records of the board of a county education district shall be maintained as provided by rule of the commissioner of education.

(e) The component school districts of a county education district abolished by this Act may collect and use or distribute taxes imposed by the county education district that are delinquent in the manner provided by rule of the commissioner of education.

SECTION 4.16. This article takes effect immediately and applies beginning with the 1993-1994 school year.

ARTICLE 5

SECTION 5.01. Subchapter Z, Chapter 13, Education Code, is amended by adding Section 13.914 to read as follows:

Sec. 13.914. LOANED TEACHERS. (a) A school district may by agreement with a business, including a sole proprietorship or corporation, accept for special employment as a

classroom teacher with the district a person employed by the business subject to the conditions prescribed by Subsection (b).

(b) An agreement under Subsection (a) must provide that:

(1) the salary of the loaned teacher is paid by the business according to the contractual relationship between the business and the loaned teacher;

(2) the school district shall supervise the loaned teacher in the performance of teaching activities; and

(3) all health and accident insurance and pension benefits of the loaned teacher are the exclusive obligation of the business.

(c) The commissioner of education may adopt guidelines for an agreement under this section and may authorize the expenditure of Central Education Agency funds for the recruiting and employment of loaned teachers under this section.

(d) The State Board of Education by rule may provide a one-year exemption for a loaned teacher from the teacher certification requirements of this chapter and may provide minimum standards and educational experience for qualifications for the exemption.

SECTION 5.02. This article takes effect immediately.

ARTICLE 6

SECTION 6.01. Subsections (a) and (b), Section 4.25, Education Code, are amended to read as follows:

(a) If any parent or person standing in parental relation to a child, within the compulsory school attendance ages and not lawfully exempt or properly excused from school attendance, fails to require such child to attend school for such periods as required by law, it shall be the duty of the proper attendance officer to warn, in writing, the parent or person standing in parental relation that attendance must be immediately required. If after this warning the parent or person standing in parental relation intentionally, knowingly, recklessly, or with criminal negligence fails to require the child to attend school as required by law *and the child has unexcused voluntary absences for the amount of time specified under Section 51.03(b)(2), Family Code*, the parent or person standing in parental relation commits an offense. The attendance officer shall file a complaint against him in the county court, in the justice court of his resident precinct, or in the municipal court of the municipality in which he resides or in the municipality or justice of the peace precinct in which the school is located. In addition, if the child has *unexcused voluntary absences for the amount of time specified under Section 51.03(b)(2), Family Code* ~~been voluntarily absent from school for 10 or more days or parts of days within a six-month period or three or more days or parts of days within a four-week period without the consent of his parents~~, the attendance officer shall refer the child to the county juvenile probation department for action as conduct indicating a need for supervision under *that section* ~~Section 51.03(b), Family Code~~. A court in which a complaint is filed under this subsection shall give preference to a hearing on the complaint over other cases before the court. An offense under this section is punishable by a fine of not less than \$10 [\$5] nor more than \$50 [\$25] for the first offense, not less than \$20 [\$10] nor more than \$100 [\$50] for the second offense, and not less than \$50 [\$25] nor more than \$200 [\$100] for a subsequent offense. Each day the child remains out of school after the warning has been given or the child ordered to school by the juvenile court may constitute a separate offense. If the court probates the sentence, the court may require the defendant to render personal services to a charitable or educational institution as a condition of probation.

(b) A fine collected under this section shall be deposited as follows:

(1) one-half shall be deposited to the credit of the operating fund of the school district in which the child attends school; and

(2) one-half shall be deposited to the credit of:

(A) the general fund of the county, if the complaint is filed in the county court or justice court; or

(B) the general fund of the municipality, if the complaint is filed in municipal court ~~[It is a defense to prosecution under Subsection (a) of this section that the parent or~~

~~person standing in parental relation to the child is unable to compel the child to attend school].~~

SECTION 6.02. Chapter 54, Family Code, is amended by adding Section 54.043 to read as follows:

Sec. 54.043. MONITORING SCHOOL ATTENDANCE. If the court places a child on probation under Section 54.04(d) and requires as a condition of probation that the child attend school, the probation officer charged with supervising the child shall monitor the child's school attendance and report to the court if the child is voluntarily absent from school.

SECTION 6.03. (a) The change in law made by this article applies only to an offense committed on or after the effective date of this article. For the purposes of this section, an offense is committed before the effective date of this article if any element of the offense occurs before the effective date.

(b) An offense committed before the effective date of this article is covered by the law in effect when the offense was committed, and the former law is continued in effect for that purpose.

SECTION 6.04. This article takes effect September 1, 1993.

ARTICLE 7

SECTION 7.01. Title 2, Education Code, is amended by adding Chapter 35 to read as follows:

CHAPTER 35. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 35.001. PUBLIC EDUCATION GOALS. The objective of state support and maintenance of a system of public education is education for good citizenship and is grounded on the conviction that a general diffusion of knowledge is essential for the welfare of Texas and for the preservation of the liberties and rights of citizens. The goals of public education are as follows:

GOAL A: All students shall have access to an education of high quality that will prepare them to participate fully now and in the future in the social, economic, and educational opportunities available in Texas.

GOAL B: The achievement gap between educationally disadvantaged students and other populations will be closed. Through enhanced dropout prevention efforts, the graduation rate will be raised to 95 percent of students who enter the seventh grade.

GOAL C: The state shall demonstrate exemplary performance in comparison to national and international standards for student performance.

GOAL D: A well-balanced and appropriate curriculum will be provided to all students.

GOAL E: Qualified and effective personnel will be attracted and retained. Adequate and competitive compensation commensurate with responsibilities will be ensured. Qualified staff in critical shortage areas will be recruited, trained, and retained.

GOAL F: The organization and management of all levels of the education system will be productive, efficient, and accountable.

GOAL G: Instruction and administration will be improved through research that identifies creative and effective methods. Demonstration programs will be developed and local initiatives encouraged for new instructional arrangements and management techniques. Technology will be used to increase the equity, efficiency, and effectiveness of student learning, instructional management, staff development, and administration.

SUBCHAPTER B. ASSESSMENT OF ACADEMIC SKILLS

Sec. 35.021. ESSENTIAL SKILLS AND KNOWLEDGE. (a) The State Board of Education by rule shall establish the essential skills and knowledge that all students should learn to achieve the goals provided under Section 35.001.

(b) Before adopting rules under this section, the board shall consider the comments of the Legislative Education Board as required under Section 11.24.

Sec. 35.022. ASSESSMENT PROGRAM. (a) The State Board of Education by rule shall create and implement a statewide assessment program that is primarily performance-based to ensure school accountability for student achievement that achieves the goals provided under Section 35.001. After adopting rules under this section, the State Board of Education shall consider the importance of maintaining stability in the statewide assessment program when adopting any subsequent modification of the rules.

(b) Before adopting rules under this section, the State Board of Education shall consider the comments of the Legislative Education Board as required under Section 11.24.

Sec. 35.023. ADOPTION AND ADMINISTRATION OF INSTRUMENTS. (a) The Central Education Agency shall adopt appropriate criterion-referenced assessment instruments designed to assess competencies in reading, writing, social studies, science, mathematics, and other subject areas determined by the State Board of Education. Assessment in reading and mathematics shall be annual for all nonexempt pupils in grades three through eight and assessment shall be periodic in other areas as determined by the State Board of Education.

(b) The Central Education Agency shall also adopt secondary exit-level assessment instruments designed to assess competencies in mathematics, social studies, science, and English language arts and other subject areas determined by the State Board of Education. The English language arts section must include the assessment of writing competencies. The State Board of Education shall administer the assessment instruments.

(c) The State Board of Education shall adopt a schedule for the administration of secondary exit-level assessment instruments. Each pupil who did not perform satisfactorily on any secondary exit-level assessment instrument when initially tested shall be given multiple opportunities to retake that assessment instrument.

(d) An assessment instrument adopted under this section may include multiple sets of questions with one set administered to each group of students assessed in order to enhance security and broaden the total curriculum elements assessed.

(e) The assessment instruments shall be designed to include assessment of a student's problem-solving ability and complex-thinking skills.

(f) The assessment instruments required by Subsections (a) and (b) must include assessments of social studies and science not later than the 1994-1995 school year. The State Board of Education may adopt a schedule for the addition of the assessment of those subjects at the required grade levels in phases. This subsection expires August 31, 1995.

(g) The State Board of Education may adopt one appropriate, nationally recognized, norm-referenced assessment instrument in reading and mathematics to be administered uniformly in the spring. If adopted, a norm-referenced assessment instrument must be a secured test. The state may pay the costs of purchasing and scoring the adopted assessment instrument and of distributing the results of the adopted instrument to the school districts. A district that administers the norm-referenced test adopted under this section shall report the results to the Central Education Agency in a manner prescribed by the commissioner of education.

(h) Not later than the 1994-1995 school year, the Central Education Agency shall adopt end-of-course tests for grades nine through 12 for subjects as defined by the commissioner of education and the State Board of Education.

(i) The Central Education Agency shall notify school districts and campuses of the results of assessment instruments administered under this section at the earliest possible date determined by the State Board of Education but not later than the beginning of the subsequent school year.

(j) The provisions of this section are subject to modification by rules adopted under Section 35.022. Each assessment instrument adopted under those rules must be reliable and valid and must meet federal requirements for measurement of student progress.

Sec. 35.024. SATISFACTORY PERFORMANCE. (a) *The State Board of Education shall determine the level of performance considered to be satisfactory on the assessment instruments.*

(b) *Each school district shall offer an intensive program of instruction for students who did not perform satisfactorily on an assessment instrument administered under this subchapter. The intensive programs shall be designed to enable the students to be performing at grade level at the conclusion of the next regular school term.*

(c) *The Central Education Agency shall develop and distribute study guides to assist parents in providing assistance during the period that school is recessed for summer to students who do not perform satisfactorily on one or more parts of an assessment instrument administered under this subchapter. The commissioner of education shall retain a portion of the total amount of funds allotted under Section 16.152(a) that the commissioner considers appropriate to finance the development and distribution of the study guides and shall reduce each district's allotment proportionately.*

Sec. 35.025. EXIT-LEVEL PERFORMANCE REQUIRED. (a) *A student may not receive a high school diploma until the student has performed satisfactorily on the secondary exit-level assessment instruments for reading, writing, and mathematics. The State Board of Education shall adopt a schedule for the addition of satisfactory performance on secondary exit-level assessment instruments in other subject areas as a requirement for receipt of a high school diploma.*

(b) *Each time a secondary exit-level assessment instrument is administered, a student who has not been given a high school diploma because of a failure to perform satisfactorily on the assessment instrument for that subject area may retake the assessment instrument.*

(c) *A student who has been denied a high school diploma under Subsections (a) and (b) and who subsequently performs satisfactorily on each secondary exit-level assessment instrument shall be issued a high school diploma.*

Sec. 35.026. LOCAL OPTION. *In addition to the assessment instruments adopted by the Central Education Agency and administered by the State Board of Education, a local school district may adopt and administer criterion-referenced or norm-referenced assessment instruments, or both, at any grade level. A norm-referenced assessment instrument adopted under this section must be economical, nationally recognized, and state-approved.*

Sec. 35.027. EXEMPTION. (a) *Any student who has a physical or mental impairment or a learning disability that prevents the student from mastering the competencies which the academic skills assessment instruments are designed to measure may be exempted from the requirements of this subchapter.*

(b) *The State Board of Education shall adopt rules under which a district may determine if a student is eligible for an exemption under this section. The Central Education Agency shall closely monitor compliance with those rules.*

(c) *The State Board of Education shall adopt rules under which a dyslexic student who is not exempt under this section may utilize procedures including but not limited to oral examinations where appropriate and the allowance of additional time and the materials or technology necessary for the student to demonstrate the student's mastery of the competencies the assessment instruments are designed to measure.*

Sec. 35.028. COMPARISON OF STATE RESULTS TO NATIONAL RESULTS. *The state assessment program shall obtain nationally comparative results for the subject areas and grade levels for which criterion-referenced assessment instruments are adopted under Section 35.023.*

Sec. 35.029. MIGRANT WORKERS. (a) *The State Board of Education by rule may provide alternate dates for the administration of the assessments to a student whose parent or guardian is a migrant worker and who travels with the parent or guardian. The alternate dates may be chosen following a consideration of migrant work patterns, and the dates selected may afford maximum opportunity for the students to be present when the assessment instruments are administered.*

(b) In this section, "migrant worker" means an individual who is employed in agricultural labor of a seasonal or temporary nature and whose work requires the individual to be absent overnight from the individual's residence.

Sec. 35.030. CONFIDENTIALITY; PERFORMANCE REPORTS. (a) In adopting academic skills assessment instruments under this subchapter, the State Board of Education or a local school district shall ensure the security of the instruments and tests in their preparation, administration, and grading. Meetings or portions of meetings held by the State Board of Education or a local school district at which individual assessment instruments or assessment instrument items are discussed or adopted are not open to the public under Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and the assessment instruments or assessment instrument items are confidential.

(b) The results of individual student performance on academic skills assessment instruments administered under this subchapter are confidential and may be made available only to the student, the student's parent or guardian, the school personnel directly involved with the student's educational program, and the Central Education Agency as required by this subchapter. However, overall student performance data shall be aggregated by grade level, subject area, campus, and district and made available to the public, with appropriate interpretations, at regularly scheduled meetings of the governing board of each school district. The information may not contain the names of individual students or teachers. The commissioner of education shall compile all of the data and report it to the legislature, lieutenant governor, and governor no later than January 1 of each odd-numbered year.

(c) In compiling performance data under Subsection (b), a district or the commissioner of education may aggregate separately from the performance data of other students the performance data of students enrolled in:

(1) a bilingual education or special language program under Subchapter L, Chapter 21; or

(2) a special education program under Subchapter N, Chapter 21.

Sec. 35.031. COST. The cost of preparing, administering, or grading the assessment instruments shall be paid from the compensatory aid provided by Section 16.152, and each district shall bear the cost in the same manner described for a reduction in allotments under Section 16.254. If a district does not receive an allocation of compensatory aid, the commissioner of education shall subtract the cost from the district's other foundation school fund allocations.

Sec. 35.032. BIENNIAL REPORTS. The State Board of Education shall biennially report to the legislature an evaluation of the correlation between student grades and student performance on assessment instruments administered under this subchapter. The report may be included with other reports made as required by law.

Sec. 35.033. ASSESSMENT INSTRUMENT STANDARDS; CIVIL PENALTY. (a) A company or organization may not distribute to, sell to, or grade for the same school district the same form of an assessment instrument for more than three school years. A school district may not use the same form of an assessment instrument for more than three years.

(b) A company or organization that grades an assessment instrument shall report the results to the district and to the Central Education Agency by campus and district and in comparison to state and national averages, unless the agency requests a report of the results in another form.

(c) State and national norms of averages shall be computed using data that are not more than two years old at the time the assessment instrument is administered and that are representative of the group of students to whom the assessment instrument is administered. The standardization norms shall be based on a national probability sample that meets accepted standards for educational and psychological testing and shall be updated at least every two years using proven psychometric procedures approved by the State Board of Education.

(d) A company or organization that reports results using national norms that are not calculated in compliance with Subsection (c) is liable to the state in an amount equal to three times the amount of actual damages. The actual damages are presumed to be at least

equal to the amount charged by the company or organization to a school district for the assessment instrument, including any charge for grading the assessment instrument. The attorney general, a district attorney, or a county attorney may bring suit to collect the damages on the request of the State Board of Education or on the request of a student or a parent or guardian of a student to whom the assessment instrument was administered.

(e) The State Board of Education shall adopt rules for the implementation of this section and for the maintenance of the security of the contents of all assessment instruments.

(f) In this section, "assessment instrument" means a group-administered achievement test.

SUBCHAPTER C. PERFORMANCE INDICATORS

Sec. 35.041. ACADEMIC EXCELLENCE INDICATORS. (a) The State Board of Education, on the advice of the Legislative Education Board, shall adopt a set of indicators of the quality of learning on a campus. The State Board of Education biennially shall review the indicators for the consideration of appropriate revisions.

(b) Performance on the indicators adopted under this section shall be compared to state-established standards. The degree of change from one school year to the next in performance on each indicator adopted under this section shall also be considered. The indicators must be based on information that is disaggregated with respect to race, ethnicity, gender, and socioeconomic status and must include:

(1) the results of assessment instruments required under Subchapter B aggregated by grade level and subject area;

(2) dropout rates;

(3) student attendance rates;

(4) high school end-of-course examinations adopted by the State Board of Education;

(5) the percentage of graduating students who attain scores on the secondary exit-level assessment instruments required under Subchapter B that are equivalent to a passing score on the test instrument required under Section 51.306;

(6) the percentage of graduating students who meet the course requirements established by the State Board of Education for career or college preparation program designations when available;

(7) the results of the Scholastic Assessment Test (SAT) and the American College Test; and

(8) any other indicator the State Board of Education adopts.

(c) Performance on the indicator under Subsection (b)(1) shall be compared to state standards, required improvement, and comparable improvement. The state standard shall be established by the commissioner of education. Required improvement is defined as the progress necessary for the campus or district to meet state standards and for its students to meet exit requirements as defined by the commissioner of education. Comparable improvement is derived by measuring campuses and districts against a profile developed from a total state student performance data base which exhibits substantial equivalence to the characteristics of students served by the campus or district, including but not limited to past academic performance, socioeconomic status, ethnicity, and limited English proficiency.

(d) The State Board of Education shall report the status of education in the state as reflected by the indicators to the legislature not later than February 1 of each odd-numbered year.

(e) Annually, the commissioner of education shall define exemplary, recognized, and unacceptable performance for each academic excellence indicator included under Subsections (b)(1) through (6) and shall project the standards for each of those levels of performance for succeeding years.

Sec. 35.042. PERFORMANCE REPORT. (a) Each board of trustees shall publish an annual report describing the educational performance of the district and of each campus in the district that includes uniform student performance and descriptive information as

determined under rules adopted by the commissioner of education. The annual report must also include campus performance objectives established under Section 21.7532 and the progress of each campus toward those objectives, which shall be available to the public. The annual report must also include the performance rating for the district as provided under Section 35.062(a) and the performance rating of each campus in the district as provided under Section 35.062(c). Supplemental information to be included in the reports shall be determined by the local board of trustees. Performance information in the annual reports on the indicators established under Section 35.041 and descriptive information required by this section shall be provided by the Central Education Agency.

(b) The board of trustees shall hold a hearing for public discussion of the report. The board of trustees shall notify property owners and parents in the district of the hearing. After the hearing the report shall be widely disseminated within the district in a manner to be determined under rules adopted by the commissioner of education.

(c) The report must also include a comparison provided by the Central Education Agency of:

(1) the performance of each campus to its previous performance and to state-established standards;

(2) the performance of each district to its previous performance and to state-established standards; and

(3) the performance of each campus or district to comparable improvement.

(d) The report may include the following information:

(1) student information, including total enrollment, enrollment by ethnicity, economic status, and grade groupings and retention rates;

(2) financial information, including revenues and expenditures;

(3) staff information, including number and type of staff by sex, ethnicity, years of experience, and highest degree held, teacher and administrator salaries, and teacher turnover; and

(4) program information, including student enrollment by program, teachers by program, and instructional operating expenditures by program.

(e) The State Board of Education by rule shall authorize the combination of this report with other reports and financial statements and shall restrict the number and length of reports that school districts, school district employees, and school campuses are required to prepare.

(f) The report must include a statement of the amount, if any, of the school district's unencumbered surplus fund balance as of the last day of the preceding fiscal year and the percentage of the preceding year's budget that the surplus represents.

Sec. 35.043. CAMPUS REPORT CARD. (a) Each school year, the Central Education Agency shall prepare and distribute to each school district a report card for each campus. The campus report cards must be based on the most current data available disaggregated by student groups. Campus performance must be compared to previous campus and district performance, current district performance, state established standards, and comparable campus group performance.

(b) The report card shall include the following information where applicable:

(1) student performance on state adopted assessment instruments;

(2) attendance;

(3) dropout rate;

(4) student performance on college admissions tests;

(5) student/teacher ratios; and

(6) administrative and instructional costs per student.

(c) The commissioner of education shall adopt rules for requiring dissemination of campus report cards annually to the parent of or person standing in parental relation to each student at the campus. On written request, the school district shall provide a copy of a campus report card to any other party.

Sec. 35.044. USES OF PERFORMANCE REPORT. The information required to be reported under Section 35.042 shall be:

- (1) the subject of public hearings or meetings required under Sections 21.930, 21.931, and 35.042;*
- (2) a primary consideration in district and campus planning; and*
- (3) a primary consideration of:*
 - (A) the State Board of Education in the evaluation of the performance of the commissioner of education;*
 - (B) the commissioner of education in the evaluation of the performance of the directors of the regional education service centers;*
 - (C) the board of trustees of a school district in the evaluation of the performance of the superintendent of the district; and*
 - (D) the superintendent in the evaluation of the performance of the district's campus principals.*

SUBCHAPTER D. ACCREDITATION STATUS

Sec. 35.061. ACCREDITATION REQUIRED. Each school district must be accredited by the Central Education Agency.

Sec. 35.062. ACCREDITATION STANDARDS. (a) The State Board of Education shall adopt rules for the accreditation of school districts. The rules shall include criteria to evaluate the performance of school districts and to assign to districts that are accredited and that have a performance in one of the categories described below an additional performance rating as follows:

- (1) exemplary (meets or exceeds state exemplary standards);*
- (2) recognized (meets or exceeds required improvement and within 10 percent of state exemplary standards); or*
- (3) accredited warned (below the state clearly unacceptable performance standard and does not meet required improvement).*
- (b) The academic excellence indicators adopted under Sections 35.041(b)(1) through (6) shall be the main consideration of the Central Education Agency in the rating of the district under this section. Additional criteria in the accreditation rules may include consideration of:*
 - (1) goals and objectives of the district;*
 - (2) compliance with statutory requirements and requirements imposed by rule of the State Board of Education under statutory authority;*
 - (3) the relation between the academic excellence indicators adopted by the State Board of Education under Section 35.041 and the campus performance objectives established under Section 21.7532, including the manner in which the campus performance objectives were established and the progress of the campus in meeting the objectives;*
 - (4) the quality of learning on each of the district's campuses based on indicators including scores on achievement tests;*
 - (5) the quality of the district's appraisal of teacher performance and of administrator performance;*
 - (6) the effectiveness of the district's principals as instructional leaders;*
 - (7) the effectiveness of the district's campuses on the basis of the most current criteria identified by research on effective schools;*
 - (8) the fulfillment of curriculum requirements;*
 - (9) the effectiveness of the district's programs in special education based on the Central Education Agency's most recent compliance review of the district and programs for special populations;*
 - (10) the effectiveness of district and campus staff development programs;*

- (11) the effective use of technology to enhance student achievement;
- (12) the effectiveness of the district's remedial and support programs under Section 21.557 for students at risk of dropping out of school;
- (13) the effectiveness of the district's dropout prevention and recovery programs;
- (14) efficient allocation of available resources;
- (15) the presence and quality of comprehensive and developmental guidance and counseling programs on campuses;
- (16) the quality and effectiveness of the district's vocational education program; and
- (17) the effectiveness of the board of trustees in governing the district.

(c) The Central Education Agency shall evaluate against state standards and shall report the performance of each campus in a district on the basis of the campus's performance on the indicators adopted under Sections 35.041(b)(1) through (6).

Sec. 35.063. DETERMINING ACCREDITATION STATUS. (a) The Central Education Agency shall annually review the performance of each district and campus on the indicators adopted under Sections 35.041(b)(1) through (6) and determine if a change in the accreditation status of the district is warranted.

(b) Each annual review shall include an analysis of the indicators under Sections 35.041(b)(1) through (6) to determine district and campus performance in relation to:

- (1) standards established for each indicator;
- (2) required improvement as defined under Section 35.041(c); and
- (3) comparable improvement as defined by Section 35.041(c).

(c) A district's accreditation rating may be raised or lowered based on the district's performance or may be lowered based on the unacceptable performance of one or more campuses in the district.

(d) In compliance with Section 21.925, the State Board of Education shall make optimum use of the agency's public education information management system to minimize the written reporting requirements of school districts.

(e) Beginning not later than the 1993–1994 school year, the commissioner of education shall notify a district that is rated accredited warned and the performance of the district or a campus in the district is below each standard under Subsection (b) and shall require the district to notify property owners and parents in the district of the lowered accreditation rating and its implication.

Sec. 35.064. ON-SITE INVESTIGATIONS. (a) The commissioner of education may direct the Central Education Agency to conduct on-site investigations at any time and may raise or lower the accreditation rating as a result of the investigation.

(b) The commissioner of education shall determine the frequency of on-site investigations by the Central Education Agency according to annual comprehensive analyses of student performance and equity in relation to the academic excellence indicators adopted under Section 35.041.

(c) In making an on-site accreditation investigation, the investigators shall obtain information from administrators, teachers, and parents of students enrolled in the district. The investigation may not be closed until information is obtained from each of those sources. The State Board of Education shall adopt rules for:

- (1) obtaining information from parents and using that information in the investigator's report; and
- (2) obtaining information from teachers in a manner that prevents a campus or district from screening the information.

(d) The Central Education Agency shall give written notice to the superintendent and the board of trustees of any impending investigation of the district's accreditation.

(e) If an annual review indicates low performance on one or more of the indicators under Sections 35.041(b)(1) through (6) of one or more campuses in a district, the Central Education Agency may conduct an on-site evaluation of those campuses only.

(f) The investigators shall report orally and in writing to the board of trustees of the district and, as appropriate, to campus administrators and shall make recommendations concerning any necessary improvements or sources of aid such as regional education service centers.

Sec. 35.065. SPECIAL ACCREDITATION INVESTIGATIONS. (a) The commissioner of education shall authorize special accreditation investigations to be conducted under the following circumstances:

(1) when excessive numbers of absences of students eligible to be tested on state assessment instruments are determined;

(2) when excessive numbers of allowable exemptions from the required state assessment are determined;

(3) in response to complaints submitted to the Central Education Agency with respect to any of the following:

(A) alleged violations of civil rights or other requirements imposed on the state by federal law or court order; or

(B) alleged violations of the accreditation criteria related to effective governance operations; or

(4) in response to established compliance reviews of the district's financial accounting practices and state and federal program requirements.

(b) Based on the results of a special accreditation investigation, the commissioner of education may lower the district's accreditation rating and may take appropriate action under Subchapter G.

Sec. 35.066. AGENCY ASSISTANCE. The Central Education Agency shall provide assistance to districts which have been found to have difficulty meeting accreditation standards.

SUBCHAPTER E. SUCCESSFUL SCHOOLS AWARDS

Sec. 35.081. CREATION OF SYSTEM. The Texas Successful Schools Awards System is created to recognize and reward those schools and school districts that demonstrate progress or success in achieving the education goals of the state.

Sec. 35.082. TYPES OF AWARDS. (a) The governor may present a financial award to the schools or districts that the commissioner of education determines have demonstrated the highest levels of sustained success or the greatest improvement in achieving the education goals. For each student in average daily attendance, each of those schools or districts is entitled to an amount set for the award for which the school or district is selected by the commissioner of education, subject to any limitation set by the commissioner on the total amount that may be awarded to a school or district.

(b) The governor may present proclamations or certificates to additional schools and districts determined to have met or exceeded the education goals.

(c) The commissioner of education may establish additional categories of awards and award amounts for a school or district determined to be successful under Subsection (a) or (b) that are contingent on the school's or district's involvement with paired, lower-performing schools.

Sec. 35.083. AWARDS. (a) The criteria which the commissioner of education shall use to select successful schools and districts shall be related to the goals in Section 35.001 and shall include consideration of performance on the academic excellence indicators adopted under Section 35.041. For purposes of selecting schools and districts under Section 35.082(a), each school's performance shall be compared to state standards and to its previous performance.

(b) The commissioner of education shall select annually schools and districts qualified to receive successful school awards for their performance and report the selections to the governor and the State Board of Education.

(c) *The Central Education Agency shall notify each school district of the manner in which the district or a school in the district may qualify for a successful school award.*

Sec. 35.084. USE OF AWARDS. (a) *In determining the use of a monetary award received under this subchapter, a school or district shall give priority to academic enhancement purposes. The award may not be used for any purpose related to athletics, and it may not be used to substitute for or replace funds already in the regular budget for a school or district.*

(b) *The school committee established under Section 21.931 shall determine the use of the funds awarded to a school under this subchapter. The professional staff, as that term is used in Section 21.930, shall determine the use of the funds awarded to the school district under this subchapter.*

Sec. 35.085. FUNDING. *The award system may be funded by donations, grants, or legislative appropriations. The commissioner of education may solicit and receive grants and donations for the purpose of making awards under this subchapter. A small portion of the award funds may be used by the commissioner of education to pay for the costs associated with sponsoring a ceremony to recognize or present awards to schools or districts under this subchapter. The donations, grants, or legislative appropriations shall be accounted for and distributed by the Central Education Agency. The awards are subject to audit requirements established by the State Board of Education.*

Sec. 35.086. CONFIDENTIALITY. *All information and reports received by the commissioner of education under this subchapter from schools or school districts deemed confidential under the open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), are confidential and may not be disclosed in any public or private proceeding.*

SUBCHAPTER F. ADDITIONAL REWARDS

Sec. 35.101. RECOGNITION AND REWARDS. *The State Board of Education shall develop a plan for recognizing and rewarding school districts and campuses that are rated as exemplary or recognized and for developing a network for sharing proven successful practices statewide and regionally.*

Sec. 35.102. EXCELLENCE EXEMPTIONS. (a) *Except as provided by Subsection (b), a school campus or district that is rated exemplary is exempt from requirements and prohibitions imposed under this code including rules adopted under this code.*

(b) *A school campus or district is not exempt under this section from a prohibition on conduct that constitutes a criminal offense. A school campus or district is not exempt under this section from requirements imposed by federal law or rule including requirements for special education or bilingual education programs. Except as provided by Subsection (d), a school campus or district is not exempt under this section from a requirement or prohibition imposed by state law or rule relating to:*

- (1) *curriculum essential elements, excluding the methodology used by a teacher and the time spent by a teacher or a student on a particular task or subject;*
- (2) *restrictions on extracurricular activities;*
- (3) *health and safety;*
- (4) *competitive bidding;*
- (5) *textbook selection;*
- (6) *elementary school class size limits;*
- (7) *removal of a disruptive student from the classroom;*
- (8) *suspension or expulsion of a student;*
- (9) *at-risk programs;*
- (10) *prekindergarten programs;*
- (11) *minimum graduation requirements; or*

(12) educational employee and educational support employee rights and benefits. In this section, "educational support employee" means a full-time or part-time school employee not defined as a "teacher" by Section 21.201(1).

(c) The Central Education Agency shall monitor and evaluate deregulation of a school campus or district under this section and Section 11.273 and report annually on the effect of deregulation on student achievement to the State Board of Education, the Legislative Education Board, the governor, the lieutenant governor, the speaker of the house of representatives, and the legislature. The report must include a list of the exemptions utilized and a review of the effectiveness of the waivers and exemptions programs.

(d) The commissioner of education may exempt an exemplary school campus from elementary class size limits under this section if the school campus submits to the commissioner a written plan showing steps that will be taken to ensure that the exemption from the class size limits will not be harmful to the academic achievement of the students on the school campus. The commissioner shall review achievement levels annually. The exemption remains in effect until the commissioner determines that achievement levels of the campus have declined.

SUBCHAPTER G. ACCREDITATION SANCTIONS

Sec. 35.121. **SANCTIONS.** (a) If a district does not satisfy the accreditation criteria, the commissioner of education shall take any of the following actions, listed in order of severity, to the extent the commissioner determines necessary:

- (1) issue public notice of the deficiency to the board of trustees;
- (2) order a hearing conducted by the board of trustees of the district for the purpose of notifying the public of the unacceptable performance, the improvements in performance expected by the Central Education Agency, and the sanctions that may be imposed under this section if the performance does not improve;
- (3) order the preparation of a student achievement improvement plan that addresses each academic excellence indicator for which the district's performance is unacceptable, the submission of the plan to the commissioner of education for approval, and implementation of the plan;
- (4) order a hearing to be held before the commissioner of education or the commissioner's designee at which the president of the board of trustees of the district and the superintendent shall appear and explain the district's low performance, lack of improvement, and plans for improvement;
- (5) arrange an on-site investigation of the district;
- (6) appoint an agency monitor to participate in and report to the agency on the activities of the board of trustees or the superintendent;
- (7) appoint a master to oversee the operations of the district;
- (8) appoint a management team to direct the operations of the district in areas of unacceptable performance;
- (9) if a district has been rated as accredited warned for a period of one year or more, appoint a board of managers composed of residents of the district to exercise the powers and duties of the board of trustees; or
- (10) if a district has been rated as accredited warned for a period of two years or more, annex the district to one or more adjoining districts under Section 19.027.

(b) If a campus performance is below any standard under Section 35.063(b), the campus is considered a low-performing campus and the commissioner of education may take any of the following actions, listed in order of severity, to the extent the commissioner determines necessary:

- (1) issue public notice of the deficiency to the board of trustees;
- (2) order a hearing conducted by the board of trustees at the campus for the purpose of notifying the public of the unacceptable performance, the improvements in performance expected by the Central Education Agency, and the sanctions that may be imposed under

this section if the performance does not improve within a designated period of time and of soliciting public comment on the initial steps being taken to improve performance;

(3) order the preparation of a student achievement improvement plan that addresses each academic excellence indicator for which the campus's performance is unacceptable, the submission of the plan to the commissioner of education for approval, and implementation of the plan;

(4) order a hearing to be held before the commissioner of education or the commissioner's designee at which the president of the board of trustees, the superintendent, and the campus principal shall appear and explain the campus's low performance, lack of improvement, and plans for improvement;

(5) appoint a special campus intervention team to:

(A) conduct a comprehensive on-site evaluation of each low-performing campus to determine the cause for the campus's low performance and lack of progress;

(B) recommend actions, including reallocation of resources and technical assistance, changes in school procedures or operations, staff development for instructional and administrative staff, intervention for individual administrators or teachers, waivers from state statute or rule, or other actions the team considers appropriate;

(C) assist in the development of a campus plan for student achievement; and

(D) assist the commissioner of education in monitoring the progress of the campus in implementing the campus plan for improvement of student achievement;

(6) if a campus has been a low-performing campus for a period of one year or more, appoint a board of managers composed of residents of the district to exercise the powers and duties of the board of trustees of the district in relation to the campus; or

(7) if a campus has been a low-performing campus for a period of two years or more, order closure of the school program on the campus.

(c) The commissioner of education shall review annually the performance of a district or campus subject to this section to determine the appropriate actions to be implemented under this section. The commissioner must review at least annually the performance of a district for which the accreditation rating has been lowered due to unacceptable student performance and may not raise the rating until the district has demonstrated improved student performance. If the review reveals a lack of improvement, the commissioner shall increase the level of state intervention and sanction unless the commissioner finds good cause for maintaining the current status. At the beginning of the 1993-1994 school year, the Central Education Agency shall rate any district with clearly unacceptable performance as accredited warned and the commissioner of education shall begin appropriate intervention in the district. The commissioner of education shall report annually to the governor, lieutenant governor, and the speaker of the house of representatives on districts or campuses subject to this section the actions taken by the commissioner to improve student performance and the results of those actions.

(d) The costs of providing a monitor, master, management team, or special campus intervention team shall be paid by the district.

(e) A master or management team appointed to oversee the operations of the district shall prepare a plan for the implementation of action under Subsection (a)(9) or (10) and may:

(1) direct an action to be taken by the principal of a campus, the superintendent of the district, or the board of trustees of the district; or

(2) approve or disapprove any action of the principal of a campus, the superintendent of the district, or the board of trustees of the district.

(f) A special campus intervention team appointed under this section may consist of teachers, principals, other educational professionals, and superintendents recognized for excellence in their roles and appointed by the commissioner of education to serve as members of a team.

(g) If the commissioner of education appoints a board of managers to govern a district, the powers of the board of trustees of the district are suspended for the period of the appointment and the commissioner shall appoint a district superintendent. Notwithstanding

ing any other provision of this code, the board of managers may amend the budget of the district.

(h) If the commissioner of education appoints a board of managers to govern a campus, the powers of the board of trustees of the district in relation to the campus are suspended for the period of the appointment and the commissioner shall appoint a campus principal. Notwithstanding any other provision of this code, the board of managers may submit to the commissioner for approval amendments to the budget of the district for the benefit of the campus. If the commissioner approves the amendments, the board of trustees of the district shall adopt the amendments.

SECTION 7.02. Section 11.273, Education Code, is amended by amending Subsection (e) and adding Subsection (h) to read as follows:

(e) A school campus or district may not receive an exemption or waiver under this section from requirements imposed by federal law or rule, including requirements for special education or bilingual education programs. *Except as provided by Subsection (h),* a [A] school campus or district may not receive an exemption or waiver under this section from a requirement or prohibition imposed by state law or rule relating to:

- (1) curriculum essential elements, excluding the methodology used by a teacher and the time spent by a teacher or a student on a particular task or subject;
- (2) restrictions on extracurricular activities;
- (3) health and safety;
- (4) competitive bidding;
- (5) elementary school class size limits, *except as provided by Section 16.054*;
- (6) minimum graduation requirements;
- (7) removal of a disruptive student from the classroom;
- (8) suspension or expulsion of a student;
- (9) at risk programs;
- (10) prekindergarten programs;
- (11) educational employee and educational support employee rights and benefits. In this section, "educational support employee" means a full-time or part-time school employee not defined as a "teacher" by Section 21.201(1) of this code; or
- (12) special education or bilingual education programs.

(h) *The commissioner of education may grant to a school district or campus that is required to develop and implement a student achievement improvement plan under Section 35.121 an exemption or waiver from any law or rule other than a prohibition on conduct that constitutes a criminal offense or a requirement imposed by federal law or rule. A school campus or district may not receive an exemption or waiver under this section from a requirement or prohibition imposed by state law or rule relating to educational employee and educational support employee rights and benefits. In this section, "educational support employee" means a full-time or part-time school employee not defined as a "teacher" by Section 21.201(1).*

SECTION 7.03. Section 11.62, Education Code, is amended to read as follows:

Sec. 11.62. ORGANIZATION AND REGULATIONS. (a) The State Department of Education shall be organized into divisions and subdivisions established by the commissioner of education ~~[subject to the approval of the State Board of Education]~~.

(b) Directors of the major divisions of the State Department of Education, and all of its other employees, shall be appointed by the commissioner of education ~~[pursuant to general rules and regulations adopted by the State Board of Education]~~.

(c) The rules and regulations pertaining to personnel administration shall include a comprehensive classification plan, including an appropriate title for each position, a description of duties and responsibilities, and the minimum requirements of training, experience, and other qualifications essential for adequate performance of the work. These rules and regulations shall likewise provide ~~[tenure safeguards,]~~ leave and retirement provisions[,] and establish hearing procedures.

SECTION 7.04. Section 13.351, Education Code, is amended by adding Subsection (c) to read as follows:

(c) *The duties of the superintendent include:*

(1) *assuming administrative responsibility and leadership for the planning, operation, supervision, and evaluation of the education programs, services, and facilities of the district and for the annual performance appraisal of the district's staff;*

(2) *assuming administrative authority and responsibility for the assignment and evaluation of all personnel of the district other than the superintendent and making recommendations regarding the selection, promotion, and dismissal of such personnel, except as provided by Section 13.352 of this code;*

(3) *managing the day-to-day operations of the district as its chief executive officer;*

(4) *as directed by local board policy, causing to be prepared a budget covering all estimated revenue and proposed expenditures of the district for the next succeeding fiscal year, according to generally accepted accounting principles, rules adopted by the State Board of Education, and adopted policies of the board of trustees;*

(5) *preparing recommendations for policies to be adopted by the board of trustees and overseeing the implementation of adopted policies;*

(6) *developing or causing to be developed appropriate administrative regulations to implement policies established by the board of trustees;*

(7) *providing leadership for the attainment of student performance in the district based on the indicators adopted under Section 35.041 and other indicators as may be adopted by the State Board of Education or the district's board of trustees; and*

(8) *performing any other duties assigned by action of the board of trustees.*

SECTION 7.05. Subsections (a), (b), and (d), Section 19.027, Education Code, are amended to read as follows:

(a) The commissioner of education by order may annex to one or more adjoining districts a school district that has been rated as *accredited warned* [~~academically-unaccredited~~] for a period of two years.

(b) The governing board of a district to which territory of an *accredited warned* [~~academically-unaccredited~~] district is annexed is the governing board for the new district.

(d) Title to the real property of the *accredited warned* [~~academically-unaccredited~~] district vests in the district to which the property is annexed. Each district to which territory is annexed assumes and is liable for any portion of the *accredited warned* [~~academically-unaccredited~~] district's indebtedness that is allocated to the receiving district under Section 19.004 of this code.

SECTION 7.06. Subsection (f), Section 21.557, Education Code, is amended to read as follows:

(f) For the purposes of this section, "student at risk of dropping out of school" includes:

(1) each student in grade levels seven through 12 who is under 21 years of age and who:

(A) was not advanced from one grade level to the next two or more school years;

(B) has mathematics or reading skills that are two or more years below grade level;

(C) did not maintain an average equivalent to 70 on a scale of 100 in two or more courses during a semester, or is not maintaining such an average in two or more courses in the current semester, and is not expected to graduate within four years of the date the student begins ninth grade; or

(D) did not perform satisfactorily on an assessment instrument administered under *Subchapter B, Chapter 35* [~~this subchapter in the seventh, ninth, or twelfth grade~~];

(2) each student in prekindergarten through grade level six who:

(A) did not perform satisfactorily on a readiness test or assessment instrument administered at the beginning of the school year;

(B) did not perform satisfactorily on an assessment instrument administered under *Subchapter B, Chapter 35* [~~this subchapter in the third or fifth grade~~];

(C) is a student of limited English proficiency, as defined by Section 21.452 of this code;

(D) is sexually, physically, or psychologically abused;

(E) engages in conduct described by Section 51.03(a), Family Code; or

(F) is otherwise identified as at risk under rules adopted by the State Board of Education; and

(3) each nonhandicapped student who resides in a residential placement facility in a district in which the student's parent or legal guardian does not reside, including a detention facility, substance abuse treatment facility, emergency shelter, psychiatric hospital, halfway house, or foster family group home.

SECTION 7.07. Section 21.930, Education Code, is amended by adding Subsection (h) to read as follows:

(h) The professional staff elected under this section shall hold at least one public meeting per year. The required meeting shall be held after receipt of the annual district performance report from the Central Education Agency for the purpose of discussing the performance of the district and the district performance objectives.

SECTION 7.08. Section 21.931, Education Code, is amended by adding Subsection (g) to read as follows:

(g) Each school committee shall hold at least one public meeting per year. The required meeting shall be held after receipt of the annual campus rating from the Central Education Agency for the purpose of discussing the performance of the campus and the campus performance objectives.

SECTION 7.09. Subsection (a), Section 23.33, Education Code, is amended to read as follows:

~~(a) The State Board of Education shall adopt statewide standards for the duties of a school board member as criteria for board member training [appoint an advisory committee to develop statewide standards on the duties of a school board member. The committee shall consist of at least 15 persons knowledgeable in the management of the public schools of the state, and no less than five members of the committee shall consist of individuals currently serving as locally elected school board members].~~

SECTION 7.10. The Educational Economic Policy Center, established under Section 34.051, Education Code, shall monitor and evaluate the implementation of the accountability system set forth in this Act and provide annual progress reports to the governor, the Legislative Education Board, and the commissioner of education.

SECTION 7.11. (a) The Select Committee to Conduct a Comprehensive Review of the Central Education Agency and efficient use of educational resources in the state is established.

(b) The committee is composed of:

(1) the chairs of the Senate Education Committee and the House Public Education Committee;

(2) two members of the senate, appointed by the lieutenant governor;

(3) two members of the house of representatives, appointed by the speaker of the house of representatives;

(4) one teacher, one principal, and one school district superintendent, appointed jointly by the lieutenant governor and the speaker of the house of representatives; and

(5) four representatives of businesses and communities, at least two of whom have one or more children attending the public schools, appointed jointly by the lieutenant governor and the speaker of the house of representatives.

(c) The chairs of the Senate Education Committee and the House Public Education Committee serve as co-chairs of the committee.

(d) The committee shall conduct an in-depth and comprehensive review of the mission, organization, size, and effectiveness of the Central Education Agency. In conducting its

review, the committee shall study the mission, organizational structure, and practices of similar agencies in other states. The review must include:

(1) a study of the agency's success in addressing national education goals adopted by the president of the United States and the nation's 50 governors and the goals for public education provided by Section 35.001, Education Code, as added by this Act;

(2) a study of the agency's organizational mission, structure, size, and effectiveness;

(3) a study of the number and effectiveness of committees created under the auspices of the agency or the State Board of Education;

(4) identification of those functions that should be performed by the state and those that should be performed regionally through regional service centers;

(5) a study of the adequacy, validity, and timeliness of data collected and published by the Public Education Information Management System (PEIMS) as provided by Section 16.007, Education Code;

(6) a study of the adequacy and effectiveness of programs designed for special populations of students and for teacher and administrator staff development;

(7) a study of the adequacy and effectiveness of assistance provided the site-based management teams established under Section 21.931, Education Code; and

(8) a study of the efficient use of state resources, school district structure, and opportunities for shared cost in order to determine the best management and use of state resources and to assist school districts in determining optimum educational opportunities.

(e) The commissioner of education shall ensure that the committee has access to any documentation and agency personnel the committee requests.

(f) Meetings of the committee shall be held at the call of the co-chairs.

(g) A majority of the members of the committee constitutes a quorum.

(h) Not later than December 1, 1994, the committee shall issue a report stating the findings of its review under Subsection (d) of this section, including any recommendations for statutory changes. The report must be approved by a majority of the membership of the committee. Any dissenting member may attach a statement to the report.

(i) Staff members of the Senate Education Committee and the House Public Education Committee shall serve as the staff of the committee.

(j) The Legislative Budget Board, comptroller, state auditor, and other state agencies, officials, and personnel shall cooperate with the committee in carrying out its duties under this section.

(k) Each member of the committee is entitled to reimbursement for actual and necessary expenses incurred in performing committee duties. Each legislative member is entitled to reimbursement from the appropriate fund of the member's respective house. Each public member is entitled to reimbursement from funds appropriated to the committee.

(l) The committee may coordinate its study with any other legislative study.

(m) The committee expires January 10, 1995.

SECTION 7.12. The following provisions of the Education Code are repealed:

(1) Sections 2.01, 11.272, 21.258, 21.551 through 21.556, 21.558 through 21.561, 21.751 through 21.7531, and 21.754 through 21.758; and

(2) Subchapter A, Chapter 34.

SECTION 7.13. Section 21.9211, Education Code, is amended by amending Subsection (e) and adding Subsections (g) and (h) to read as follows:

(e) The advisory council shall review the rules of the University Interscholastic League and shall make recommendations relating to the rules to *the governor, the legislature, the Legislative Council of the University Interscholastic League, and [to] the State Board of Education*. The advisory council shall submit its initial report not later than *January 1, 1995* [~~September 1, 1990~~].

(g) *The advisory council shall study:*

(1) *University Interscholastic League policy with respect to the eligibility of students to participate in programs;*

(2) *geographic distribution of University Interscholastic League resources and programs; and*

(3) *gender equity.*

(h) *No actions of the University Interscholastic League relating to the provision of additional programs of school districts shall be taken pending submission of a final report by the advisory council.*

SECTION 7.14. This article takes effect immediately and applies beginning with the 1993–1994 school year.

ARTICLE 8

SECTION 8.01. Subchapter Z, Chapter 21, Education Code, is amended by adding Section 21.938 to read as follows:

Sec. 21.938. DISTRICT AND CAMPUS PLANNING PROCESS. (a) The board of trustees of each school district shall develop a district and campus planning process, utilizing the procedures established in Sections 35.041, 21.930, and 21.931, under which the board shall adopt a report detailing a plan for the district and plans for each campus.

(b) Each district's report shall include a current analysis of student performance based on the academic excellence indicators adopted under Section 35.041, campus performance objectives established under Section 21.7532, and other measures of student performance the board determines and shall include provisions for:

(1) addressing the needs of district students for special programs, such as suicide prevention or dyslexia treatment programs;

(2) requiring the principal of each campus, with the assistance of parents and guardians of the school's students, other adults in the attendance area, and the professional staff of the school, to establish a campus plan consistent with Sections 21.7532 and 21.931;

(3) dropout reduction;

(4) integration of technology in instructional and administrative programs;

(5) discipline management;

(6) staff development for professional staff of the district;

(7) career education to assist students in developing the knowledge, skills, and competencies necessary for a broad range of career opportunities;

(8) compensatory and remedial education as required by Section 21.557; and

(9) other information the board considers useful.

(c) In the district and campus plan or in another manner permitted by federal law, the board shall address any federal planning requirements.

(d) A district report is not filed with the Central Education Agency, but the district must make the report available to the agency on request.

SECTION 8.02. Subsection (f), Section 12.65, Education Code, is amended to read as follows:

(f) Covers of all books shall be removed before reissue, and the pupils to whom the books are issued shall replace the covers [under direction of the teacher].

SECTION 8.03. Subsection (a), Section 12.67, Education Code, is amended to read as follows:

(a) If a school district employee enters into a business relationship, employment contract, or other transaction with a textbook publisher doing business, or with the potential of doing business, with the state or a school district in the state and the transaction directly or indirectly results in remuneration to the employee, the transaction must be registered with the superintendent of the school district [and with the commissioner of education].

SECTION 8.04. Section 21.601, Education Code, is amended to read as follows:

Sec. 21.601. ESTABLISHMENT. ~~[(a)]~~ Each school district may establish a school-community guidance center designed to locate and assist children with problems which interfere with their education, including but not limited to juvenile offenders and children with severe behavioral problems or character disorders. The centers shall coordinate the efforts of school district personnel, local police departments, truant officers, and probation officers in working with students, dropouts, and parents in identifying and correcting factors which adversely affect the education of the children.

~~[(b) With the approval of the commissioner of education, school districts with an average daily attendance of less than 6,000 students may cooperate with other districts for the purpose of establishing a common center.]~~

SECTION 8.05. Section 21.701, Education Code, is amended to read as follows:

Sec. 21.701. ADOPTION AND APPROVAL OF PROGRAMS. Each school district shall adopt and implement a discipline management program *to be included in the district plan under Section 21.938.* ~~[Before implementation, the proposed program must be submitted to the Central Education Agency, which shall review and approve or reject the program.]~~

SECTION 8.06. Section 21.702, Education Code, is amended to read as follows:

Sec. 21.702. CONTENT OF APPROVED PROGRAMS. A ~~[To be approved, a]~~ discipline management program must:

(1) encourage the commitment, cooperation, and involvement of school district administrators, teachers, parents, and students in the development of the program;

(2) encourage the use of the regional education service center to assist in developing the program and providing training to teachers and administrators;

(3) require the designation of a person in each school with special training in discipline management to implement and assess the program in that school and to identify and refer appropriate students to school-community guidance programs;

(4) require the development of a student code of conduct that clearly describes the district's expectations with respect to student conduct, including provisions similar to the Attorney General's Proposed Voluntary Student Code of Conduct of 1980, and specifies the consequences of violating the code;

(5) specifically outline the responsibilities of teachers, administrators, parents, and students in the discipline management program; and

(6) make parental involvement an integral part of the discipline management program, requiring:

(A) one or more conferences during each school year between a teacher and the parents of a student if the student is not maintaining passing grades or achieving the expected level of performance or presents some other problem to the teacher or in any other case the teacher considers necessary;

(B) parent training workshops for home reinforcement of study skills and specific curriculum objectives conducted for parents who want to participate and based on interest indicated by parents in the community; and

(C) a written statement signed by each parent that the parent understands and consents to the responsibilities outlined in the discipline management program.

SECTION 8.07. Section 21.926, Education Code, is amended to read as follows:

Sec. 21.926. INFORMATION TO BE POSTED. (a) For the benefit of parents of school age children, each school in a district shall post in a conspicuous location in the main administration building accessible to the general public:

~~[(1) a map of the school's attendance area; and~~

~~[(2) a notice that includes:~~

~~[(A) the aggregate results by grade level for the state and for each campus in the district of assessment instruments administered under Section 21.551 of this code for each of the preceding three school years and, for each high school, the aggregate results by grade level of the most recent administration of any norm-referenced assessment~~

~~instrument, including the Scholastic Aptitude Test and American College Testing Program assessment instruments;~~

~~[(B) the total enrollment at each campus in the district for each of the four most recent school years;~~

~~[(C) the ratio of classroom teachers to students at each campus in the district;~~

~~[(D) a statement that copies of the notice and of a map of the school's attendance area are available in the school's main office; and~~

~~[(E)] a statement that the district's annual performance report is available in the school library.~~

~~(b) [The assessment instrument results posted under Subsection (a)(2)(A) of this section must be presented in the form of appropriate, nontechnical interpretations in terms understandable to the general public.~~

~~[(e) The board of trustees of the district may prescribe the format of the notice required by Subsection (a)(2) of this section.~~

~~[(d)] Each school shall have available in its main office copies of:~~

- ~~(1) the notice [and map] required to be posted under Subsection (a) of this section; and~~
- ~~(2) a map of the school's attendance area.~~

~~(c) [(e)] Each school shall have available in its library a copy of:~~

- ~~(1) the annual performance report for the district required by Section 21.258 of this code; and~~
- ~~(2) the district and campus plan required by Section 21.938.~~

~~[(f) Each district shall have available in its administration building the information required to be posted by Subsection (a) of this section for each school in the district.]~~

SECTION 8.08. The following sections of the Education Code are repealed: 11.2051, 12.67(c), 14.065, 21.034, 21.111(d), 21.253, 21.301(o), 21.557(d), 21.654, and 21.909(d).

SECTION 8.09. Subsection (c), Section 13.037, Education Code, is amended to read as follows:

(c) The Central Education Agency shall collect and maintain ~~[teacher performance data from each district's implementation of the statewide appraisal system and shall collect and maintain]~~ data from state-mandated tests required for entry to and exit from teacher education programs. The Central Education Agency shall provide probationary teacher performance data on a regular basis to the respective institutions of higher education and to the Texas Higher Education Coordinating Board~~[-Texas College and University System].~~

SECTION 8.10. Section 13.103, Education Code, is amended to read as follows:

Sec. 13.103. PROBATIONARY CONTRACT: TERMINATION. The board of trustees of any school district may terminate the employment of any teacher holding a probationary contract at the end of the contract period, if in their judgment the best interests of the school district will be served thereby; provided, that notice of intention to terminate the employment shall be given by the board of trustees to the teacher ~~not later than the 60th day before the last day of instruction required [on or before April 1, preceding the end of the employment term fixed]~~ in the contract. In event of failure to give such notice of intention to terminate within the time above specified, the board of trustees shall thereby elect to employ such probationary teacher in the same capacity, and under probationary contract status for the succeeding school year if the teacher has been employed by such district for less than three successive school years, or in a continuing contract position if such teacher has been employed during three consecutive school years.

SECTION 8.11. The heading to Subchapter E, Chapter 13, Education Code, is amended to read as follows:

SUBCHAPTER E. TEACHER APPRAISAL [CAREER LADDER]

SECTION 8.12. Subsections (a), (c), and (f), Section 13.302, Education Code, are amended to read as follows:

(a) The State Board of Education shall adopt an appraisal process and criteria on which to appraise the performance of teachers ~~[for career ladder level assignment purposes]~~. The criteria must be based on observable, job-related behavior, including teachers' implementation of discipline management procedures.

~~(c) An [In developing the appraisal process, the board shall provide for using not fewer than two appraisers for each appraisal. One]~~ appraiser must be the teacher's supervisor ~~or [and one must be]~~ a person ~~[as]~~ approved by the board of trustees. An appraiser who is a classroom teacher may not appraise the performance of another classroom teacher who teaches at the same school campus at which the appraiser teaches, unless it is impractical because of the number of campuses or unless the appraiser is the chairman of a department or grade level whose job description includes classroom observation responsibilities. ~~[In a district that uses not more than two appraisers per appraisal, the board shall provide for an appraisal by a third appraiser from another campus if the difference between the appraisals is such that the teacher's performance cannot be accurately evaluated.]~~ The board also shall provide for a uniform training program and uniform certification standards for appraisers to be used throughout the state. The board shall include teacher self-appraisal in the process.

(f) Appraisal for teachers must be detailed by category of professional skill and characteristic and must provide for separate ratings per category. The appraisal process shall guarantee a conference between *the* teacher and *the* appraiser. ~~The [appraisers, and the]~~ conference shall be diagnostic and prescriptive with regard to remediation ~~[as]~~ needed in overall ~~[summary of]~~ performance *and* by category ~~[and identify the required performance for advancement to the next level]~~.

SECTION 8.13. Section 13.303, Education Code, is amended by amending Subsections (a) and (c) and adding Subsection (d) to read as follows:

(a) *In appraising teachers, each* ~~[Each]~~ school district shall use:

- (1) the appraisal process and performance criteria developed by the board; *or*
- (2) *an appraisal process and performance criteria developed by the school district utilizing the procedures established in Sections 21.930 and 21.931 and approved by the commissioner of education* ~~[in appraising teachers for career ladder level assignment purposes]~~.

(c) Appraisal shall be done *at least* ~~[not fewer than]~~:

~~[(1) two times during each school year for probationary teachers and for teachers on level one of the career ladder; and~~

~~[(2)] once during each school year. The district shall maintain a written copy of the evaluation of each teacher's performance in the teacher's personnel file. Each teacher is entitled to receive a written copy of the evaluation. After receiving a written copy of the evaluation, a teacher is entitled to a second appraisal by a different appraiser or to submit a written rebuttal to the evaluation to be attached to the evaluation in the teacher's personnel file. The evaluation and any rebuttal may be given to another school district at which the teacher has applied for employment at the request of that district [for teachers on levels two, three, and four of the career ladder whose performance, on the most recent appraisal, was evaluated as exceeding expectations or clearly outstanding. The performance of a teacher who, because of unusual circumstances, is appraised only once in a particular year shall be evaluated for career ladder purposes on the basis of a single appraisal].~~

(d) *A teacher may be given advance notice of the date or time of an appraisal.*

SECTION 8.14. Section 13.304, Education Code, is amended to read as follows:

Sec. 13.304. PERFORMANCE CATEGORIES. In appraisals of teacher performance ~~[for career ladder level assignment purposes]~~, performance ~~[shall be evaluated in the same manner and under the same criteria regardless of level. Performance]~~ shall be evaluated as:

- (1) unsatisfactory (if the teacher's performance is clearly not acceptable in some major area);
- (2) below expectations (if the teacher's performance needs improvement in some major areas);

- (3) satisfactory (if the teacher's performance meets expectations);
- (4) exceeding expectations (if the teacher's performance excels in some major areas); or
- (5) clearly outstanding.

SECTION 8.15. Subchapter B, Chapter 16, Education Code, is amended by adding Section 16.058 to read as follows:

Sec. 16.058. SALARY OF TEACHER FORMERLY ON CAREER LADDER. (a) Notwithstanding any provision to the contrary, a teacher who was assigned to a career ladder level under Subchapter E, Chapter 13, on August 31, 1993, is entitled to receive for the 1993-1994 school year and each school year thereafter, as long as the teacher is employed by the same district, a minimum salary equal to the teacher's base salary plus the teacher's career ladder supplement in the 1992-1993 school year.

(b) In this section, "base salary" means the minimum salary prescribed by Sections 16.055 and 16.056 plus any amount in excess of the minimum salary that a school district pays the teacher.

SECTION 8.16. Subsection (e), Section 21.112, Education Code, is amended to read as follows:

(e) All new, additional, and continuing vocational programs shall offer competency-based instruction. Instruction must be based on the essential elements approved by the State Board of Education. ~~[A competency profile must be maintained for each student enrolled.]~~

SECTION 8.17. Subsection (a), Section 21.204, Education Code, is amended to read as follows:

(a) In the event the board of trustees receives a recommendation for nonrenewal, the board, after consideration of the written evaluations required by Section 21.202 of this subchapter and the reasons for the recommendation, shall, in its sole discretion, either reject the recommendation or shall give the teacher written notice of the proposed nonrenewal *not later than the 60th day before the last day of instruction required* ~~[on or before April 1 preceding the end of the employment term fixed]~~ in the contract.

SECTION 8.18. Subsection (b), Section 822.201, Government Code, is amended to read as follows:

(b) "Salary and wages" as used in Subsection (a) means:

(1) normal periodic payments of money for service the right to which accrues on a regular basis in proportion to the service performed;

(2) ~~[career ladder payments of money authorized by Section 16.057, Education Code;~~
 (3) amounts by which the member's salary is reduced under a salary reduction agreement authorized by Article 6252-3d, Revised Statutes; and

(3) ~~[(4)]~~ amounts that would otherwise qualify as salary and wages under Subdivision (1) ~~[or (2)]~~ but are not received directly by the member pursuant to a good faith, voluntary written salary reduction agreement in order to finance payments to a deferred compensation or tax sheltered annuity program specifically authorized by state law or to finance benefit options under a cafeteria plan qualifying under Section 125 of the Internal Revenue Code of 1986 (26 U.S.C. Section 125), if:

(A) the program or benefit options are made available to all employees of the employer; and

(B) the benefit options in the cafeteria plan are limited to one or more options that provide deferred compensation, group health and disability insurance, group term life insurance, dependent care assistance programs, or group legal services plans.

SECTION 8.19. Subsection (b), Section 825.405, Government Code, is amended to read as follows:

(b) For purposes of this section, the statutory minimum salary is the salary provided by Sections ~~[Section]~~ 16.056 and 16.058, Education Code, multiplied by the cost of education adjustment applicable under Section 16.102, Education Code, to the district in which the member is employed, ~~[plus any career ladder supplement under Section 16.057, Education Code].~~

SECTION 8.20. The following sections of the Education Code are repealed: 12.61(a), 13.301, 13.305, 13.306(b), 13.307–13.317, 13.319–13.323, and 21.251(c).

SECTION 8.21. Subsections (a) and (e), Section 13.353, Education Code, are amended to read as follows:

(a) Each school district shall offer in-service training in management skills for district administrators, including principals and superintendents. The *program may be one* [~~programs must be consistent with standards or models~~] adopted by the State Board of Education *or one approved by the board of trustees and shall include management training in site-based decision making established under Section 21.931* [~~must be flexible and draw from a variety of offerings both in and out of state~~].

(e) From funds appropriated for that purpose, the Central Education Agency *may* [shall] allocate an amount each year for the identification, adaptation, development, and evaluation of professional development programs and materials; training of trainers; and technical assistance in the development of general management and leadership development skills, including skills necessary to implement Sections 21.7532, 21.930, and 21.931 of this code. The State Board of Education may designate special projects and development activities to be carried out with such funds. [~~The manner in which such funds are utilized shall be reported annually to the commissioner of education.~~]

SECTION 8.22. Subsection (d), Section 13.354, Education Code, is amended to read as follows:

(d) Each school district *may* [shall] use the appraisal process and performance criteria developed by the board in evaluating the performance of an administrator.

SECTION 8.23. The following sections of the Education Code are repealed: 12.64 and 13.354(c).

SECTION 8.24. Subsection (d), Section 21.165, Education Code, is amended to read as follows:

(d) If the requisition is for the purchase of a motor vehicle, bus, bus body, or bus chassis, it must be approved by either the county school board when funded under law or the board of trustees of a school district [~~and by the commissioner of education~~].

SECTION 8.25. Subsections (c) through (i), Section 21.174, Education Code, are amended to read as follows:

(c)(1) Except as provided in *Subsections (e) and (f)* [~~Subdivision (4) of this subsection~~], no county or local district school board may purchase or lease or authorize the purchase or lease after September 1, 1993 [~~1991~~], of any motor vehicle used for transporting school children for any county or local school district operating more than 50 such vehicles unless that vehicle is capable of using compressed natural gas or other alternative fuels which result in comparably lower emissions of oxides of nitrogen, volatile organic compounds, carbon monoxide, or particulates or any combination thereof.

(2) A county or local district school board may acquire or be provided equipment or refueling facilities necessary to operate such vehicles using compressed natural gas or other alternative fuels:

(A) by purchase or lease as authorized by law;

(B) by gift or loan of the equipment or facilities; or

(C) by gift or loan of the equipment or facilities or other arrangement pursuant to a service contract for the supply of compressed natural gas or other alternative fuels.

(3) If such equipment or facilities are donated, loaned, or provided through other arrangement with the supplier of compressed natural gas or other alternative fuels, the supplier shall be entitled to recoup its actual cost of donating, loaning, or providing the equipment or facilities through its fuel charges under the supply contract.

~~[(4) The State Purchasing and General Services Commission shall waive the requirements of this section for any school district if the county or local district school board certifies to the commission that:~~

~~[(A) the county's or district's vehicles will be operating primarily in an area in which neither the county or district nor a supplier has or can reasonably be expected to~~

~~establish a central refueling station for compressed natural gas or other alternative fuels; or~~

~~[(B) the county or district is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using compressed natural gas or other alternative fuels pursuant to Subdivision (2) of this subsection at a projected cost that is reasonably expected to result in no greater net costs than the continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied.~~

~~[(5) Written notice of the date, hour, place, and subject of any county or local district school board meeting called for the purpose of considering certification under Subdivision (4) of this subsection shall be furnished to the secretary of state, who shall then post the notice on a bulletin board to be located in the main office of the secretary of state at a place convenient to the public and shall have a notice posted on a bulletin board located at a place convenient to the public in its central administrative office. Notice of the meeting must be posted for at least 60 days preceding the scheduled time of the meeting.]~~

~~(d)(1) Any county or local district school board which operates a fleet of more than 50 motor vehicles used for transporting school children shall ensure that [achieve the following percentages of such vehicles capable of using compressed natural gas or other alternative fuels by the times specified]:~~

~~(A) not less than 50 percent of its fleet is capable of using compressed natural gas or other alternative fuel not later than the earlier of September 1, 1997, or four years from the date the fleet exceeds 50 vehicles [the percentage shall be equal to or greater than 30 percent of the number of such vehicles operated by September 1, 1994]; and~~

~~(B) not less than 90 percent of its fleet is capable of using compressed natural gas or other alternative fuel not later than September 1, 2001 [equal to or greater than 50 percent of the number of such vehicles operated by September 1, 1996].~~

~~(2) A school district may meet the fleet composition requirements by converting new or existing vehicles to alternative fuel, by replacing existing vehicle engines with alternative fuel engines, or by purchasing new alternative fuel vehicles [The Texas Air Control Board must review this alternative fuel use program by December 31, 1996, and, if the Texas Air Control Board determines that the program has been effective in reducing total annual emissions from vehicles in the area, county and local district school boards operating fleets of more than 50 motor vehicles used for transporting school children shall achieve a percentage of such vehicles capable of using compressed natural gas or other alternative fuels equal to or greater than 90 percent of the number of fleet vehicles operated by September 1, 1998, and thereafter].~~

~~(3) School districts that achieve a fleet composition of 30 percent or more alternative fuel vehicles by September 1, 1994, have priority to receive appropriated or other funds available for the purpose of fleet conversion to alternative fuel [County and local district school boards shall submit to the Central Education Agency annual reports summarizing their progress in achieving these percentage requirements and increasing use of compressed natural gas or other alternative fuels, and the Central Education Agency shall submit the summaries to the Texas Air Control Board by September 1 of each year.~~

~~[(4) County and local district school boards, the Central Education Agency, and the State Purchasing and General Services Commission shall support the Texas Air Control Board in collecting reasonable information needed to determine air quality benefits from use of alternative fuels in affected districts].~~

~~(e)(1) The requirements of Subsections (c) and (d) do not apply to any school district if the county or local district school board acts in accordance with Paragraph (A), (B), or (C).~~

~~(A) The requirements do not apply if the county or local district school board solicits, but does not receive, any bids for service contracts for the supply of compressed natural gas or other alternative fuels that are at or below the net projected costs of continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied. The bid solicitation provision does not require any board to solicit a bid for service contracts more than once during any fiscal year.~~

~~(B) The requirements do not apply if the county or local district school board solicits, but does not receive, any bids for conversion of engines or vehicles or replacement of~~

engines or vehicles to compressed natural gas or other alternative fuels that are at or below the net projected costs of continued use of traditional gasoline or diesel fuels measured over the expected useful life of the engine or vehicle.

(C) The requirements do not apply if the county or local district school board solicits, but does not receive, any bids for a contract that provides for conversion or replacement, or both, of engines or vehicles, or both, to compressed natural gas or other alternative fuel and for the supply of compressed natural gas or other alternative fuels that is at or below the net projected costs of continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment, facilities, vehicles, and engines. The bid solicitation provision does not require a board to solicit such a bid more than once during any three-year period.

(2) A person making a bid or submitting a proposal in response to a solicitation made in compliance with this subsection has the burden to provide the school board the information on total cost-effectiveness of the bid, including, if applicable, the cost of new warranties for vehicle or engine conversion and insurance costs.

(3) In determining total cost-effectiveness under this subsection, a board may consider both the short-term and long-term costs to the district and other objective factors that may affect the capacity of the district to use compressed natural gas or other alternative fuels. The board shall consider availability of state and federal funds for conversion and replacement purposes ~~[County and local district school boards, the Central Education Agency, and the State Purchasing and General Services Commission in the development of the compressed natural gas or other alternative fuel use program should work with district fleet operators, vehicle manufacturers and converters, fuel distributors, and others to delineate the vehicles to be covered, taking into consideration range, specialty uses, fuel availability, vehicle manufacturing and conversion capability, safety, resale values, and other relevant factors. Districts may also meet the percentage requirements of this section through the conversion of existing vehicles, in accordance with federal and state requirements and applicable safety laws, to use the alternative fuels].~~

(f) ~~The requirements of Subsections (c) and (d) do not require any district to convert any vehicle put into service on or before September 1, 1993, to alternative fuel. The requirements of Subsections (c) and (d) do not apply until September 1, 1995, for any district that applied for a two-year life-cycle cost benefit waiver prior to September 1, 1993, if that waiver is subsequently granted. The General Services Commission shall expedite the process on all those waiver applications. [The State Purchasing and General Services Commission may reduce any percentage specified or waive the requirements of Subsection (d) of this section for any county or district on receipt of certification supported by evidence acceptable to the commission that:~~

~~[(1) the county or district's vehicles will be operating primarily in an area in which neither the county, district, nor a supplier has or can reasonably be expected to establish a central refueling station for compressed natural gas or other alternative fuels; or~~

~~[(2) the county or district is unable to acquire or be provided equipment or refueling facilities necessary to operate vehicles using compressed natural gas or other alternative fuels pursuant to Subdivision (2) of Subsection (c) of this section at a projected cost that is reasonably expected to result in no greater net costs than the continued use of traditional gasoline or diesel fuels measured over the expected useful life of the equipment or facilities supplied.]~~

(g) County and local district school boards and the ~~[State Purchasing and]~~ General Services Commission in purchasing, leasing, maintaining, or converting vehicles for compressed natural gas or other alternative fuels use shall comply with all applicable safety standards promulgated by the United States Department of Transportation and the Railroad Commission of Texas or their successor agencies. ~~The requirements of Subsections (c) and (d) do not require a district to convert any vehicle or engine to compressed natural gas or other alternative fuel if the conversion does not meet fuel system integrity standards as designed and tested by the National Highway Transportation Safety Administration or the Railroad Commission of Texas.~~

(h) In this section, a vehicle is considered to be capable of using compressed natural gas or other alternative fuels if the vehicle is capable of using compressed natural gas or other

alternative fuels either in its original equipment engine or in an engine that has been converted to use compressed natural gas or other alternative fuels after September 1, 1991[, unless the time for compliance is extended pursuant to Subsection (i) of this section].

~~[(4) The General Services Commission may extend the date by which a vehicle powered by a traditional gasoline or diesel engine shall be capable of using compressed natural gas or other alternative fuels as required under this section for one or more periods of 90 days, but not beyond September 1, 1993, if it finds a lack of ability to acquire such vehicles with original alternative fuels equipment, to acquire such vehicles which are able to be converted, or to convert such vehicles to use compressed natural gas or other alternative fuels.]~~

SECTION 8.26. Subsection (a), Section 19.051, Education Code, is amended to read as follows:

(a) By the procedure described in this subchapter, any of the following groups of school districts may consolidate into a single school district:

- (1) two or more ~~[contiguous]~~ independent school districts;
- (2) two or more ~~[contiguous]~~ common school districts; or
- (3) one or more independent school districts and one or more common school districts ~~[constituting as a whole one continuous territory].~~

SECTION 8.27. Section 21.041, Education Code, as amended by Section 1, Chapter 353, Acts of the 71st Legislature, Regular Session, 1989, and Section 2.12, Chapter 813, Acts of the 71st Legislature, Regular Session, 1989, is reenacted and amended to read as follows:

Sec. 21.041. ABSENCES. (a) Except as provided by this section, a student may not be given credit for a class unless the student is in attendance for at least 90 percent of the ~~[80] days the class is offered [during a semester].~~

(b) The board of trustees of each school district shall appoint one or more attendance committees to hear petitions for class credit by students who are in attendance fewer than *the number of days required under Subsection (a)* ~~[80 days during a semester]~~. Each board may determine the number of committees needed in the district and the composition of each committee. The committees may give class credit to a student who is in attendance fewer than *the number of days required under Subsection (a)* ~~[80 days during a semester]~~ because of extenuating circumstances. Each local school board shall establish guidelines to determine what constitutes extenuating circumstances, subject to rules adopted by the State Board of Education, and shall adopt policies establishing alternative ways for students to make up work or regain credit lost because of absences. The State Board of Education shall submit its rules adopted under this section to the Legislative Education Board for review to ensure compliance with legislative intent. A certified public school employee may not be assigned additional instructional duties as a result of this section outside of the regular workday unless the employee is compensated for the duties at a reasonable rate of pay.

(c) A member of an attendance committee is not personally liable for any act or omission arising out of duties as a member of an attendance committee.

(d) If a student is denied credit for a class by an attendance committee, the student may appeal the decision to the board. The decision of the board may be appealed by trial de novo to the district court of the county in which the school district's central administrative office is located.

(e) This section does not affect the provision of Section 21.035(f) of this code regarding a student's excused absence from school to observe religious holy days.

SECTION 8.28. Subsections (a), (b), (e), and (f), Section 21.458, Education Code, are amended to read as follows:

(a) Each district that is required to offer a bilingual education or special language program shall offer a voluntary ~~[summer]~~ program for children of limited English proficiency who will be eligible for admission to kindergarten or the first grade at the beginning of the next school year. *A school that operates on a two-semester system shall offer the program during the period school is recessed for the summer. A school that operates on any other system permitted by this code shall offer 120 hours of instruction on a schedule the board of trustees of the district establishes.*

(b) Enrollment in the program is optional with the parent of the child. *In a district that operates on a two-semester system, the [The] program must be offered for one-half day for eight weeks.*

(e) The ~~[preschool or summer]~~ programs *required or authorized by this section* shall not be a substitute for programs required to be provided during the regular school year.

(f) The legislature may appropriate funds from the foundation school program for support of a ~~[the summer]~~ program under Subsection (a) of this section.

SECTION 8.29. Subsection (b), Section 21.3011, Education Code, is amended to read as follows:

(b) A student may be removed from class and expelled without resort to an alternative education program under Section 21.301 of this code if the student, on school property or while attending a school-sponsored or school-related activity on or off of school property:

(1) assaults a teacher or other individual;

(2) sells, gives, or delivers to another person or possesses or uses or is under the influence of:

(A) marihuana or a controlled substance, as defined by Chapter 481, Health and Safety Code, or by 21 U.S.C. Section 801 et seq.; or

(B) a dangerous drug, as defined by Chapter 483, Health and Safety Code;

(3) sells, gives, or delivers to another person an alcoholic beverage, as defined by Section 1.04, Alcoholic Beverage Code, or commits a serious act or offense while under the influence of alcohol; or on more than one occasion possesses, uses, or is under the influence of an alcoholic beverage;

(4) possesses a firearm as defined by Section 46.01(3), Penal Code, an illegal knife as defined by Section 46.01(6), Penal Code, a club as defined by Section 46.01(1), Penal Code, or a weapon listed as a prohibited weapon under Section 46.06, Penal Code;

(5) engages in conduct that contains the elements of an offense relating to abusable glue or aerosol paint under Sections 485.031 through 485.035, Health and Safety Code, or relating to volatile chemicals under Chapter 484, Health and Safety Code;

(6) engages in conduct that contains the elements of the offense of arson under Section 28.02, Penal Code; ~~[or]~~

(7) engages in conduct that contains the elements of the offense of criminal mischief under Section 28.03, Penal Code, if the offense is punishable as a felony under that section; or

(8) *engages in conduct that contains the elements of the offense of public lewdness under Section 21.07, Penal Code.*

SECTION 8.30. Subsection (a), Section 3, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) All information collected, assembled, or maintained by or for governmental bodies, except in those situations where the governmental body does not have either a right of access to or ownership of the information, pursuant to law or ordinance or in connection with the transaction of official business is public information and available to the public during normal business hours of any governmental body, with the following exceptions only:

(1) information deemed confidential by law, either Constitutional, statutory, or by judicial decision;

(2) information in personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, and transcripts from institutions of higher education maintained in the personnel files of professional public school employees; provided, however, that nothing in this section shall be construed to exempt from disclosure the degree obtained and the curriculum on such transcripts of professional public school employees, and further provided that all information in personnel files of an individual employee within a governmental body is to be made available to that individual employee or his designated representative as is public information under this Act;

(3) information relating to litigation of a criminal or civil nature and settlement negotiations, to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection;

(4) information which, if released, would give advantage to competitors or bidders;

(5) information pertaining to the location of real or personal property for public purposes prior to public announcement of the project, and information pertaining to appraisals or purchase price of real or personal property for public purposes prior to the formal award of contracts therefor;

(6) drafts and working papers involved in the preparation of proposed legislation;

(7) matters in which the duty of the Attorney General of Texas or an attorney of a political subdivision, to his client, pursuant to the Rules and Canons of Ethics of the State Bar of Texas are prohibited from disclosure, or which by order of a court are prohibited from disclosure;

(8) records of law enforcement agencies and prosecutors that deal with the detection, investigation, and prosecution of crime and the internal records and notations of such law enforcement agencies and prosecutors which are maintained for internal use in matters relating to law enforcement and prosecution;

(9) private correspondence and communications of an elected office holder relating to matters the disclosure of which would constitute an invasion of privacy;

(10) trade secrets and commercial or financial information obtained from a person and privileged or confidential by statute or judicial decision;

(11) inter-agency or intra-agency memorandums or letters which would not be available by law to a party in litigation with the agency;

(12) information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions, and/or securities, as that term is defined in the Texas Securities Act;

(13) geological and geophysical information and data including maps concerning wells, except information filed in connection with an application or proceeding before any agency or an electric log confidential under Subchapter M, Chapter 91, Natural Resources Code;

(14) student records at educational institutions funded wholly, or in part, by state revenue; but such records shall be made available upon request of educational institution personnel, the student involved, that student's parent, legal guardian, or spouse or a person conducting a child abuse investigation required by Section 34.05, Family Code;

(15) birth and death records maintained by the Bureau of Vital Statistics of the Texas Department of Health, except that:

(A) a birth record is public information and available to the public on and after the 50th anniversary of the date on which the record is filed with the Bureau of Vital Statistics or local registration official; and

(B) a death record is public information and available to the public on and after the 25th anniversary of the date on which the record is filed with the Bureau of Vital Statistics or local registration official;

(16) the audit working papers of the State Auditor;

(17) information relating to:

(A) the home addresses or home telephone numbers of each official or employee or each former official or employee of a governmental body except as otherwise provided by Section 3A of this Act, or of peace officers as defined by Article 2.12, Code of Criminal Procedure, 1965, as amended, or by Section 51.212, Texas Education Code; or

(B) the home addresses, home telephone numbers, or social security numbers of employees of the Texas Department of Criminal Justice, or the home or employment addresses or telephone numbers or the names or social security numbers of their family members;

(18) information contained on or derived from triplicate prescription forms filed with the Department of Public Safety pursuant to Section 481.075, Health and Safety Code;

(19) photographs that depict a peace officer as defined by Article 2.12, Code of Criminal Procedure, or a security officer commissioned under Section 51.212, Education Code, the release of which would endanger the life or physical safety of the officer unless:

(A) the officer is under indictment or charged with an offense by information; or

(B) the officer is a party in a fire or police civil service hearing or a case in arbitration; or

(C) the photograph is introduced as evidence in a judicial proceeding;

(20) rare books and original manuscripts which were not created or maintained in the conduct of official business of a governmental body and which are held by any private or public archival and manuscript repository for the purposes of historical research;

(21) oral history interviews, personal papers, unpublished letters, and organizational records of nongovernmental entities, which were not created or maintained in the conduct of official business of a governmental body and which are held by any private or public archival and manuscript repository for the purposes of historical research, to the extent that the archival and manuscript repository and the donor of the interviews, papers, letters, and records may agree to limit disclosure of the item;

(22) ~~curriculum objectives and~~ test items developed by educational institutions that are funded wholly or in part by state revenue and test items developed by licensing agencies or governmental bodies; and

(23) the names of applicants for the position of chief executive officer of institutions of higher education, except that the governing body of the institution of higher education must give public notice of the name or names of the finalists being considered for the position at least 21 days prior to the meeting at which final action or vote is to be taken on the employment of the individual.

SECTION 8.31. Subsection (a), Section 5, Chapter 173, Acts of the 47th Legislature, Regular Session, 1941 (Article 6687b, Vernon's Texas Civil Statutes), is amended to read as follows:

(a) No person who is under the age of eighteen (18) years shall drive any motor vehicle while in use as a school bus for the transportation of pupils to or from school. A person who is eighteen (18) years of age or older may not operate a vehicle as a school bus until he has been properly licensed to operate a school bus. It shall be unlawful for any person to be employed to drive a motor vehicle while in use as a school bus for the transportation of pupils who has not undergone a physical examination which reveals his physical and mental capabilities to safely operate a school bus. Such physical examinations shall be conducted annually for each driver. A pre-employment driver's license check shall have been made with the Texas Department of Public Safety prior to the employment and the person's driving record must be acceptable according to standards developed jointly by the State Board of Education and the Texas Department of Public Safety. Effective at such date and under provisions as may be determined by the State Board of Education, the driver of a school bus shall have in his possession a certificate stating he is enrolled in, or has completed, a driver training course in school bus safety education that has been approved jointly by the State Board of Education and the Texas Department of Public Safety. The bus driving certificate shall remain valid for a period of three years. This subsection does not affect the right of any otherwise qualified person with a hearing disability to be licensed, certified, and employed as a bus driver for vehicles used to transport hearing impaired students or persons. *This subsection does not apply to the operation of a vehicle owned by a public institution of higher education to transport students of a school district that operates within that institution if:*

(1) the person operating the vehicle is approved by the institution to operate the vehicle; and

(2) the transportation is for a field trip or other special event.

SECTION 8.32. The following sections of the Education Code are repealed: 21.008, 21.132 through 21.134, 23.993, 23.994, and 23.999.

SECTION 8.33. Effective September 1, 1995, the following provisions of the Education Code are repealed:

- (1) Title 1; and
- (2) Title 2, except Chapters 16, 20, and 36.

SECTION 8.34. Not later than June 1, 1994, the commissioner of education shall submit to the legislature a proposed revision of Education Code provisions repealed by Section 8.33 of this article.

SECTION 8.35. Effective September 1, 1995, the Central Education Agency is abolished.

SECTION 8.36. This article takes effect September 1, 1993.

ARTICLE 9

SECTION 9.01. (a) Except as otherwise provided by this Act, this Act takes effect immediately.

(b) This Act applies to taxes imposed on or after January 1, 1993.

SECTION 9.02. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

Passed the Senate on May 12, 1993: Yeas 27, Nays 4; May 21, 1993, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 22, 1993, House granted request of the Senate; May 27, 1993, Senate adopted Conference Committee Report by the following vote: Yeas 25, Nays 6; passed the House, with amendments, on May 21, 1993: Yeas 101, Nays 43, two present not voting; May 22, 1993, House granted request of the Senate for appointment of Conference Committee; May 28, 1993, House adopted Conference Committee Report by the following vote: Yeas 103, Nays 41, one present not voting.

Approved May 31, 1993.

Effective May 31, 1993, except arts. 6 and 8, eff. Sept. 1, 1993.

CHAPTER 348

S.B. No. 327

AN ACT

relating to the Texas Peace Officers' Memorial Advisory Committee.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 415.112, Government Code, is amended to read as follows:

Sec. 415.112. ESTABLISHMENT OF ADVISORY COMMITTEE. The advisory committee is established to fund, design, [and] construct, *update, maintain, and manage* a Texas peace officers' memorial on the grounds of the Capitol Complex in honor of those Texas peace officers who have died in the line of duty.

SECTION 2. Section 415.113, Government Code, is amended to read as follows:

Sec. 415.113. COMPOSITION OF ADVISORY COMMITTEE. The advisory committee is composed of:

- (1) ~~the attorney general;~~
- ~~[(2) the director of the Department of Public Safety;~~
- ~~[(3)]~~ three licensed peace officers appointed by the governor;
- (2) [(4)] a surviving spouse of a Texas peace officer who died in the line of duty, appointed by the governor;